



# MONTGOMERY COUNTY EXECUTIVE ORDER

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Authorizing the issuance of Water Quality Protection Charge Revenue Bonds, Series 2016	Executive Order No.  23-16	Subject Suffix
Department Department of Finance	Department No. B348-16	Effective Date March 14, 2016

ORDER PROVIDING FOR THE AUTHORIZATION, ISSUANCE AND SALE OF REVENUE BONDS OF MONTGOMERY COUNTY, MARYLAND IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$45,000,000, SUBJECT TO ADJUSTMENT AS PROVIDED HEREIN; PRESCRIBING THE FORM AND TENOR OF SUCH BONDS, AND THE MANNER, TERMS AND CONDITIONS OF SALE AND ISSUANCE THEREOF; PRESCRIBING THE TERMS OF SUCH BONDS AND ALL OTHER DETAILS INCIDENT THERETO; AUTHORIZING THE EXECUTION AND DELIVERY OF ALL DOCUMENTS IN CONNECTION WITH THE ISSUANCE THEREOF; PROVIDING FOR THE PAYMENT WHEN DUE, OF THE PRINCIPAL OR REDEMPTION PRICE OF AND INTEREST ON THE BONDS; AND TO PROVIDE GENERALLY FOR THE SALE, ISSUANCE, AND DELIVERY OF SUCH BONDS.

## RECITALS

A. The County has determined pursuant to (i) Section 10-203 of the Local Government Article of the Annotated Code of Maryland (2013 Replacement Volume and 2015 Supplement) ("Article 10-203"); (ii) Title 4 of the Environment Article of the Annotated Code of Maryland, as amended (the "Environment Article"); (iii) Council Bill No. 12-12 passed by the County Council of the County (the "County Council") on April 17, 2012, approved by the County Executive of the County (the "County Executive") on April 27, 2012 and effective on April 27, 2012 (the "Bond Ordinance"); (iv) the Charter of the County (the "Charter"); and (v) Chapter 19 of the Montgomery County Code, as amended ("Chapter 19" and together with Section 10-203, the Environment Article, the Charter, and the Bond Ordinance, the "Authorizing Legislation") to issue and sell its special limited obligation bonds in the aggregate principal amount not to exceed \$45,000,000; and

B. The Bond Ordinance provides that the County Executive, by executive order shall prescribe and determine various matters in connection with the issuance, sale and delivery of the Bonds, as defined below.

NOW, THEREFORE, BE IT ORDERED by the County Executive of Montgomery County, Maryland, that:

Section 1. Pursuant to the authority of the Authorizing Legislation, there is hereby authorized and directed the execution, issuance, sale and delivery of a series of bonds designated "Montgomery County, Maryland, Water Quality Protection Charge Revenue Bonds, Series 2016 (the "Bonds") in the aggregate principal amount not to exceed \$45,000,000.

Section 2. The Bonds shall be issued under and secured by the Trust Agreement, by and between the County and U.S. Bank National Association (the "Trustee"), dated as of July 1, 2012 (the "Original Trust Agreement"), as amended and supplemented by a supplemental trust agreement (the "Supplemental Trust Agreement") by and between the County and Trustee, dated as of April 1, 2016 (as so amended and supplemented, the "Trust Agreement"), substantially in the form attached hereto as Exhibit A, with such further amendments, omissions, insertions, or variations deemed necessary or appropriate by the Chief



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Administrative Officer of the County (the "Chief Administrative Officer") and/or the Director of Finance of the County (the "Director of Finance").

Section 3. The Bonds shall be dated such date, shall bear interest, shall mature, shall have such redemption provisions (including, without limitation, mandatory sinking fund redemption, extraordinary optional redemption and special mandatory redemption provisions) and shall have such other terms and provisions as are set forth in the Trust Agreement. Bonds shall be dated the date of their initial delivery and shall be issuable in registered form in the denomination of Five Thousand Dollars (\$5,000) each or any integral multiple thereof. The Bonds will initially be issued in book-entry form without physical distribution of certificates to the public. The Depository Trust Company, New York, New York ("DTC") will act as the securities depository for the Bonds and the Bonds will be registered in the name of Cede & Co. as nominee for DTC. The Bonds of each issue, when first issued, may be numbered from No. R-1 upward in the order of their maturities or in some other manner which conforms to standard bond registration practices and is acceptable to DTC and the Director of Finance. Registration books (the "Bond Register") for the Bonds shall be maintained by U.S. Bank National Association, which shall also act as paying agent for the Bonds (the "Bond Registrar and Paying Agent"). The Director of Finance from time to time may designate a bank or other financial institution to serve as Bond Registrar and Paying Agent upon 30 days' prior written notice to the registered owners of the Bonds.

So long as Cede & Co. is the registered owner of the Bonds, as nominee of DTC, the County and the Bond Registrar and Paying Agent will send all payments of principal of and premium, if any, and interest on the Bonds and notices to Cede & Co., and consider Cede & Co. as registered owner for all other purposes. Principal payments shall be made to Cede & Co. by check, draft or wire transfer at its address as it appears on the Bond Register on the respective payment or redemption dates. Interest shall be paid to Cede & Co. by check, draft or wire transfer at its address as it appears on the Bond Register, such interest being payable semi-annually on April 1 and October 1 in each year (commencing October 1, 2016), accounting from the most recent date to which interest has been paid or, if no interest has been paid, from the date of initial delivery of the Bonds.

The Bonds shall contain similar provisions to and be in substantially the form set forth in Appendix A to the Supplemental Trust Agreement attached hereto as Exhibit A, with such variations as are necessary or appropriate to reflect the provisions with respect to book-entry bonds set forth herein as long as the Bonds are in book-entry form. So long as the Bonds are in book-entry form, the manual or facsimile signature of the Director of Finance shall be sufficient to authenticate the Bonds. Bonds issued substantially in accordance with such form, with appropriate insertions as indicated, when properly executed and authenticated as required by this Section, shall be deemed to constitute the special limited obligation Bonds of the County.

Section 4. The Bonds shall be executed in the name of the County and on its behalf by the County Executive, whose signature may be by facsimile, an original or facsimile of the official seal of the County shall be imprinted or otherwise reproduced thereon, attested by the manual or facsimile signature of the Director of Finance, and authenticated by the manual or facsimile signature of the Bond Registrar and Paying Agent.



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Section 5. The proceeds of the Bonds shall be used to (i) finance and refinance the planning, design, acquisition, and construction of stormwater management facilities and other related projects pursuant to the County's regulatory obligations under the Municipal Separate Storm Sewer permit (the "MS4 Permit") between the County and the Maryland Department of the Environment, as such facilities are included in and approved in the County's Capital Improvements Program, (ii) fund a debt service reserve fund for the Bonds, and (iii) pay the costs of issuing the Bonds. The Chief Administrative Officer may determine that the Bonds can be successfully marketed without a debt service reserve fund.

Section 6. The Bonds shall mature on April 1, in serial installments commencing on April 1, 2017 and shall bear interest at the rates set forth in the bids selected by the Director of Finance and approved pursuant to a subsequent order. The final maturity of the Bonds shall not be later than April 1, 2046. The provisions provided in this section may be modified by a subsequent order or orders of the County Executive (or the Chief Administration Officer, acting in the capacity of the County Executive).

Section 7. Bonds which mature on or before April 1, 2024, are not subject to redemption prior to their respective maturities. Bonds which mature on or after April 1, 2025, are subject to redemption beginning April 1, 2024 as a whole or in part at any time thereafter, in any order of their maturities, at the option of the County, at a redemption price for each bond equal to the principal amount of the Bond to be redeemed, together with interest accrued to the date fixed for redemption, without premium. The redemption provisions provided in this section may be modified by subsequent order or orders of the County Executive (or the Chief Administration Officer, acting in the capacity of the County Executive).

Section 8. (a) The Bonds shall be issued, delivered and sold at public sale upon electronic proposals via the BiDCOMP/Parity Competitive Bidding System ("PARITY") or via such other electronic bidding system as may be determined by subsequent order or orders of the County Executive (or the Chief Administrative Officer, acting in the capacity of the County Executive), in such manner and for such price or prices, not less than the principal amount thereof and accrued interest thereon, as may be determined by the Director of Finance. The Bonds shall be sold in accordance with the Official Notice of Sale (as defined below).

(b) The official Notice of Sale (the "Notice of Sale") pertaining to the Bonds shall be substantially in the form set forth in Appendix D to the Preliminary Official Statement relating to the Bonds (the "Preliminary Official Statement"), a copy of which is attached hereto as Exhibit B, subject to such additions, deletions and amendments as shall be approved by the Director of Finance, publication of such Preliminary Official Statement to constitute conclusive evidence of approval by the Director of Finance and the terms, provisions and conditions set forth in such form of Notice of Sale are hereby adopted and approved as the terms, provisions and conditions under which and in the manner in which the Bonds shall be sold, issued and delivered at public sale.

(c) The Director of Finance is hereby authorized to cause to be prepared an Official Statement, and any necessary supplements or addenda thereto. The Preliminary Official Statement and the Official Statement shall contain such financial and other data as are customarily found in such publications and as may be deemed appropriate by the Director of Finance. The Director of Finance is further authorized to



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take such actions on behalf of the County as they deem appropriate or necessary to comply with Rule 15c2-12 (hereinafter defined) in connection with the offering and sale of the Bonds.

(d) The Director of Finance is hereby authorized and directed to publish a summary of the Notice of Sale for the Bonds at least twice in one or more daily or weekly newspapers having a general circulation in Montgomery County, Maryland, the first such publication to be at least ten (10) days prior to the date of sale. The summary notice of sale shall be published in substantially the form as approved by the Director of Finance, the publication of such notice to constitute conclusive evidence of the approval of the Director of Finance.

Section 9. Immediately after the sale of the Bonds, the aggregate principal amount of the Bonds to be issued, the interest rate or rates payable on the Bonds, the maturity schedule for the Bonds, the dated date and interest payment dates for the Bonds and the redemption provisions relating to the Bonds, shall be fixed by an executive order of the County Executive (or the Chief Administrative Officer, acting in the capacity of the County Executive and in accordance with the terms of this Order), subject to the provisions hereof and in accordance with the terms and conditions of the sale of the Bonds.

Section 10. The proceeds from the sale of the Bonds, including any premium and accrued interest therefor, shall be paid directly to the Director of Finance who shall deposit the same in the proper accounts of the County to finance and refinance the planning, design, acquisition, and construction of stormwater management facilities and other related projects pursuant to the County's regulatory obligations under the MS4 Permit, fund a debt service reserve fund for the Bonds, and pay the costs of issuing the Bonds.

Section 11. It is hereby determined that it is necessary and appropriate for the County to execute and deliver a Continuing Disclosure Agreement ("Continuing Disclosure Agreement") in accordance with the provisions of Rule 15c2-12 of the Securities and Exchange Act of 1934 ("Rule 15c2-12"), for the benefit of the registered owners from time to time of the Bonds, in order to enable the successful bidder for the Bonds (including any of such bidder's associates constituting "principal underwriters" within the meaning of Rule 15c2-12) to comply with the requirements of Rule 15c2-12. The Director of Finance shall execute and deliver the Continuing Disclosure Agreement substantially in the form attached as Appendix B to the Preliminary Official Statement, with such changes therein as bond counsel to the County may advise.

Section 12. There may be deducted from the gross proceeds received from the sale of the Bonds the cost of advertising, underwriting fees, printing and legal fees and fees of other professionals, and expenses relating to such sale as may be determined by the Director of Finance. There may also be deducted from the gross proceeds of the sale of the Bonds any other incidental expenses relating thereto and the reimbursement of the general tax receipts of the County for any monies previously expended therefrom for the projects more specifically described in this Order.

Section 13. The County hereby covenants that it will take, or refrain from taking, any and all actions necessary to comply with the provisions of Section 103 and Sections 141 through 150, inclusive, of the Internal Revenue Code of 1986, as amended (the "Code"), applicable to the Bonds in order to



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preserve the status of the interest on the Bonds as excluded from gross income for Federal income tax purposes. Without limiting the generality of the covenant set forth in the preceding sentence, (a) the County will not use or permit the use of any of the proceeds of the Bonds or any of the funds of the County in such manner as would cause the interest on the Bonds to be included in gross income for Federal income tax purposes, (b) the County will regulate the investment of the proceeds of the Bonds so as not to cause any of the Bonds to be an "arbitrage bond" within the meaning of Section 148 of the Code and the Income Tax Regulations thereunder, (c) the County will, if and to the extent necessary make periodic determinations of the rebate amount and timely pay any rebate amount, or installment thereof, to the United States of America, (d) the County will prepare and timely file Internal Revenue Service Form 8038-G, Information Return for Tax-Exempt Governmental Obligations, and (e) the Director of Finance is hereby authorized and directed to prepare or cause to be prepared and to execute and certificate or other document which may be required in order to assure compliance with the applicable provisions of Section 103 and Sections 141 through 150, inclusive, of the Code, and the Income Tax Regulations thereunder.

Section 14. The Chief Administrative Officer shall by subsequent order, award the Bonds to the winning bidder for the Bonds in accordance with the Notice of Sale and this Order, and take such other action as deemed necessary in connection with the issuance and sale of the Bonds.

Section 15. The Chief Administrative Officer and Director of Finance, and such other officers, employees, and agents of the County are hereby authorized and directed to take such actions, and to provide such certifications of facts and estimates regarding the amount and use of the proceeds of the Bonds, as may be necessary or appropriate from time to time to comply with, or to evidence the County's compliance with the covenants set forth in this Order.

Section 16. This Order shall take effect immediately.

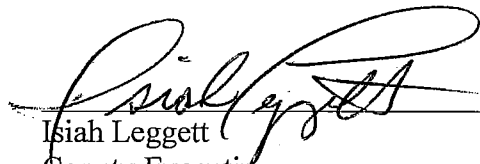


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Dated as of this \_\_\_\_ day of March, 2016.

  
Isiah Leggett  
County Executive  
Montgomery County, Maryland

#### List of Exhibits

Exhibit A – Supplemental Trust Agreement  
Exhibit B – Preliminary Official Statement



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## EXHIBIT A

Supplemental Trust Agreement

[See Attached]

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**FIRST SUPPLEMENTAL TRUST AGREEMENT**

by and between

**MONTGOMERY COUNTY, MARYLAND**

and

**U.S. BANK NATIONAL ASSOCIATION,**  
as Trustee

Dated as of April 1, 2016

**\$41,470,000**  
**MONTGOMERY COUNTY, MARYLAND**  
**Water Quality Protection Charge Revenue Bonds**  
**Series 2016**

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## **FIRST SUPPLEMENTAL TRUST AGREEMENT**

**THIS FIRST SUPPLEMENTAL TRUST AGREEMENT** dated as of April 1, 2016 (this "First Supplemental Trust Agreement"), and effective from the time of execution and delivery hereof, is by and between **MONTGOMERY COUNTY, MARYLAND** (the "County") and **US BANK NATIONAL ASSOCIATION**, as trustee (the "Trustee").

### **RECITALS**

**WHEREAS**, the County and the Trustee have entered into a Trust Agreement dated as of July 1, 2012 (the "Trust Agreement") in order to, among other things, provide security for bonds issued from time to time by the County, the proceeds of which are used to finance and refinance the planning, design, acquisition, and construction of stormwater management facilities and other related projects pursuant to the County's regulatory obligations under the Municipal Separate Storm Sewer permit (the "MS4 Permit") between the County and the Maryland Department of the Environment, as such facilities are included in and approved in the County's Capital Improvements Program (the "Projects");

**WHEREAS**, the County has determined to issue revenue bonds to finance all or a portion of certain Projects;

**WHEREAS**, Section 2.04 of the Trust Agreement provides that the County may issue Additional Bonds (as defined in the Trust Agreement) in accordance with the Trust Agreement;

**WHEREAS**, Section 8.01 of the Trust Agreement provides that the County and the Trustee may enter into a Supplemental Trust Agreement (as defined in the Trust Agreement) without the consent of or notice to the Holders (as defined in the Trust Agreement) for the purpose of authorizing the issuance of Additional Bonds in accordance with the Trust Agreement; and

**WHEREAS**, the County and the Trustee are entering into this First Supplemental Trust Agreement in order to provide for the issuance of the County's Water Quality Protection Charge Revenue Bonds, Series 2016 (the "Series 2016 Bonds");

**NOW THEREFORE**, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the Trustee do hereby agree that the Trust Agreement shall be amended and supplemented as follows:

### **ARTICLE I**

#### **DEFINITIONS AND RULES OF CONSTRUCTION**

##### **Section 1.01. Definitions.**

Terms used in this First Supplemental Trust Agreement and not defined herein shall have the respective meanings given such terms in the Trust Agreement. In addition to the terms

The Series 2016 Bonds shall be substantially in the form set forth in Appendix A attached hereto and made a part hereof, with such insertions, omissions and variations as may be deemed necessary or appropriate by the County Executive of the County and the Director of Finance of the County executing the same. The County hereby adopts the form of Series 2016 Bonds set forth in Appendix A, and all of the covenants and conditions set forth therein, as the form of obligation to be incurred by the County as the Series 2016 Bonds. The covenants and conditions set forth in the form of Series 2016 Bonds are incorporated into the Trust Agreement by reference and shall be binding upon the County as though set forth in full therein.

**Section 2.03. Conditions Precedent to the Issuance of Additional Bonds.**

Each of the following has been delivered to the County and the Trustee, in form and substance satisfactory to the Trustee:

(a) an executed counterpart of this First Supplemental Trust Agreement;

(b) a written order of the County directing the authentication and delivery of the Series 2016 Bonds, stating the purchase price, if any, of the Series 2016 Bonds and stating that all items required by this Section and Section 2.04 of the Trust Agreement are herewith delivered to the Trustee in form and substance satisfactory to the County;

(c) an opinion of Bond Counsel to the effect that (i) this First Supplemental Trust Agreement has been duly authorized, executed and delivered by the County and, assuming the due authorization, execution and delivery thereof by the other parties thereto, constitutes the valid and binding obligation of the County, (ii) the County is duly authorized and entitled to execute and deliver the Series 2016 Bonds, and (iii) Series 2016 Bonds executed, authenticated and delivered as provided in the Trust Agreement and this First Supplemental Trust Agreement have been duly and validly issued and constitute valid and binding limited obligations of the County;

(d) a Certificate of the County to the effect that upon the authentication and delivery of the Series 2016 Bonds, no Event of Default shall exist under the Trust Agreement;

## **ARTICLE IV**

### **FUNDS AND ACCOUNTS**

#### **Section 4.01. Application of Proceeds of the Series 2016 Bonds.**

The proceeds of the Series 2016 Bonds shall be received by the Trustee in trust for the benefit of the Holders from time to time of the Series 2016 Bonds, subject to and in accordance with the terms of the Trust Agreement. Upon the receipt of the proceeds of the Series 2016 Bonds, including accrued interest, if any, thereon, the Trustee shall deposit such proceeds as follows: (i) \$ \_\_\_\_\_, of such proceeds shall be deposited into the Debt Service Reserve Fund and (ii) \$ \_\_\_\_\_, the balance of such proceeds, shall be deposited into the Construction Fund to pay for the costs of the Projects and the cost of issuing the Series 2016 Bonds.

## **ARTICLE V**

### **MISCELLANEOUS**

#### **Section 5.01. Execution in Several Counterparts.**

This First Supplemental Trust Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original for all purposes; and all such counterparts shall together constitute but one and the same instrument.

#### **Section 5.02. Severability.**

If any clause, provision or section of this First Supplemental Trust Agreement is held illegal or invalid by any court, the invalidity of such clause, provision or section shall not affect any of the remaining clauses, provisions or sections hereof, and this First Supplemental Trust Agreement shall be construed and enforced as if such illegal or invalid clause, provision or section had not been contained herein. In case any agreement or obligation contained in this First Supplemental Trust Agreement is held to be in violation of law, such agreement or obligation shall nevertheless be determined to be the agreement or obligation of the Administration or the Trustee, as the case may be, to the full extent permitted by law.

#### **Section 5.03. Application of Provisions of Trust Agreement.**

The provisions of this First Supplemental Trust Agreement are intended to supplement those of the Trust Agreement as in effect immediately prior to the execution and delivery hereof. The Trust Agreement shall remain in full force and effect and the provisions of the Trust Agreement shall apply with like force and effect to the Series 2016 Bonds except to the extent that the provisions of the Trust Agreement are expressly modified or their application expressly limited by the terms of this First Supplemental Trust Agreement.

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STATE OF MARYLAND, COUNTY OF MONTGOMERY, TO WIT:

I HEREBY CERTIFY that on this \_\_\_\_ day of April in the year 2016, before the subscriber, a Notary Public in and for the State of Maryland, personally appeared Timothy L. Firestine, the Chief Administrative Officer of Montgomery County, Maryland, and that he, as such officer, being authorized so to do, executed the foregoing First Supplemental Trust Agreement for the purposes therein contained, by signing his name thereto as the Chief Administrative Officer of Montgomery County, Maryland and causing the corporate seal of Montgomery County, Maryland to be affixed thereto.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

(SEAL)

\_\_\_\_\_  
Notary Public  
My Commission Expires:

STATE OF MARYLAND, COUNTY OF MONTGOMERY, TO WIT:

I HEREBY CERTIFY that on this \_\_\_\_ day of April in the year 2016, before the subscriber, a Notary Public in and for the State of Maryland, personally appeared Joseph F. Beach, the Director of Finance of Montgomery County, Maryland, and that he, as such officer, being authorized so to do, executed the foregoing First Supplemental Trust Agreement for the purposes therein contained, by signing his name thereto as the Director of Finance of Montgomery County, Maryland.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

(SEAL)

\_\_\_\_\_  
Notary Public  
My Commission Expires:

COMMONWEALTH OF VIRGINIA, CITY OF RICHMOND, TO WIT:

I HEREBY CERTIFY that on this \_\_\_\_ day of April in the year 2016, before the subscriber, a Notary Public in and for the Commonwealth of Virginia, personally appeared Stephanie E. Haysley, a Vice President of U.S. Bank National Association a national banking association duly organized and existing under the laws of the United States of America, and that she, as such officer, being authorized so to do, executed the foregoing First Supplemental Trust Agreement for the purposes therein contained, by signing her name thereto as an authorized officer of such national banking association.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

(SEAL)

\_\_\_\_\_  
Notary Public  
My Commission Expires:

The Bonds are authorized to be issued pursuant to (i) Section 10-203 of the Local Government Article of the Annotated Code of Maryland (2013 Replacement Volume and 2015 Supplement), as amended ("Section 10-203"); (ii) Title 4 of the Environmental Article of the Annotated Code of Maryland, as amended (the "Environment Article"); (iii) Council Bill No. 12-12 passed by the County Council of the County on April 17, 2012, approved by the County Executive of the County on April 27, 2012 and effective on April 27, 2012 (the "Bond Ordinance"); (iv) the Charter of the County (the "Charter"); (v) Chapter 19 of the Montgomery County Code, as amended ("Chapter 19" and together with Section 10-203, the Environment Article, the Charter, and the Bond Ordinance, the "Authorizing Legislation"); and (vii) an Executive Order of the County Executive issued on March \_\_, 2016 (the "Order").

All interest due on this Bond shall be payable to the person in whose name this Bond is registered on the Bond registration books maintained by U.S. Bank National Association, as trustee and registrar and paying agent (such entity and any successors being referred to herein as the "Trustee"), as of the close of business on the fifteenth (15<sup>th</sup>) day of the calendar month immediately preceding any Interest Payment Date (as defined in the Trust Agreement) for the payment of such interest.

The principal or redemption price of and interest on this Bond are payable in lawful money of the United States of America or by check payable in such money. If any payment of the principal or redemption price of or interest on this Bond shall be due on a day other than a Business Day (defined herein), such payment shall be made on the next Business Day with like effect as if made on the originally scheduled date. A "Business Day" means a day other than (i) a Saturday, a Sunday, or legal holiday (ii) a day on which commercial banks in the State of Maryland, in the State of New York, or in the city in which the Designated Office of the Trustee is located are authorized or obligated to remain closed, or (iii) a day on which the New York Stock Exchange is closed.

THIS BOND, TOGETHER WITH INTEREST AND PREMIUM, IF ANY, THEREON IS NOT A GENERAL OBLIGATION OF THE COUNTY, BUT IS A SPECIAL LIMITED OBLIGATION PAYABLE SOLELY FROM THE PLEDGED REVENUES. THE COUNTY SHALL NOT BE OBLIGATED TO PAY THE PRINCIPAL OF OR INTEREST OR PREMIUM, IF ANY, ON THE BONDS, OR OTHER COSTS INCIDENT THERETO, EXCEPT AS HEREIN PROVIDED.

NEITHER THE FAITH AND CREDIT OF THE STATE, THE COUNTY, OR ANY OTHER AGENCY OR INSTRUMENTALITY OF THE STATE OR ANY POLITICAL, SUBDIVISION OF THE STATE, NOR THE TAXING POWER OF THE COUNTY, THE STATE OR ANY POLITICAL SUBDIVISION OF THE STATE IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, OR INTEREST OR PREMIUM, IF ANY, ON THE BONDS, OR OTHER COSTS INCIDENT THERETO. THE BONDS AND ANY INTEREST OR PREMIUM, IF ANY, THEREON SHALL NOT CONSTITUTE AN INDEBTEDNESS OF THE COUNTY, STATE, OR ANY AGENCY, INSTRUMENTALITY OR POLITICAL SUBDIVISION OF THE STATE WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISIONS WHATSOEVER.

Revenues and other moneys pledged by the County, to the extent provided in the Trust Agreement.

5. Redemption.

(a) The Bonds are subject to optional and mandatory redemption prior to maturity as provided in the Trust Agreement.

(b) Notice of Redemption. The Trustee shall mail notice of any redemption at least twenty (20) days prior to the redemption date to the registered owners of the Bonds to be redeemed at their addresses as they appear on the registration books maintained by the Trustee. The failure so to mail any such notice to any of such registered owners shall not affect the validity of the proceedings for the redemption of any Bonds.

(c) Effect of Call for Redemption. On the date designated for redemption, if all conditions, if any, to such redemption shall have been satisfied, the Bonds or portions of Bonds so called for redemption shall become and be due and payable at the redemption price provided for redemption of such Bonds or such portions thereof on such date and, if moneys for the payment of the redemption price and accrued interest are held by the Trustee as provided in the Trust Agreement, interest on such Bonds or such portions thereof so called for redemption shall cease to accrue, such Bonds or such portions thereof so called for redemption shall cease to be entitled to any benefit or security under the Trust Agreement, and the registered owners thereof shall have no rights in respect of such Bonds or such portions thereof so called for redemption except to receive payment of the redemption price thereof and the accrued interest thereon so held by the Trustee. If a portion of this Bond shall be called for redemption, a new Bond or Bonds in the aggregate principal amount equal to the unredeemed portion hereof, of the same series and maturity and bearing interest at the same rate, shall be issued to the registered owner upon the surrender hereof.

(d) Provisions Applicable to Book-Entry Bonds. So long as all of the Bonds shall be maintained in book-entry form with a Securities Depository (as defined in the Trust Agreement) in accordance with the Trust Agreement, in the event that part, but not all, of this Bond shall be called for redemption, the holder of this Bond may elect not to surrender this Bond in exchange for a new Bond in accordance with paragraph (c) above and in such event shall make a notation indicating the principal amount of such redemption and the date thereof on the Payment Grid attached hereto. For all purposes, the principal amount of this Bond outstanding at any time shall be equal to the Principal Sum shown on the face hereof reduced by the principal amount of any partial redemption of this Bond following which the holder of this Bond has elected not to surrender this Bond in accordance with paragraph (c) above. The failure of the owner hereof to note the principal amount of any partial redemption on the Payment Grid attached hereto, or any inaccuracy therein, shall not affect the payment obligation of the County hereunder. **THEREFORE, IT CANNOT BE DETERMINED FROM THE FACE OF THIS BOND WHETHER A PART OF THE PRINCIPAL OF THIS BOND HAS BEEN PAID.**

6. Defeasance. The Trust Agreement prescribes the manner in which it may be discharged and provides that Bonds shall be deemed to be paid if moneys or certain Government

books maintained by the Trustee. Any notice mailed as provided herein will be conclusively presumed to have been given, whether or not actually received by the addressee.

All acts, conditions and things required by the Constitution of the State of Maryland, the laws of the State of Maryland and the Authorizing Legislation to happen, exist and be performed precedent to and in the issuance of this Bond, and the execution and delivery of the Trust Agreement, have happened, exist and have been performed as so required.

No recourse shall be had for the payment of the principal or redemption price of and interest on this Bond or for any claims based thereon or on the Trust Agreement against any employee, officer, or agent of the County or any person executing this Bond, all such liability, if any, being expressly waived and released by the registered owner of this Bond by the acceptance of this Bond.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Trust Agreement until it shall have been authenticated by the execution of the Trustee of the certificate of authentication endorsed hereon.

CERTIFICATE OF AUTHENTICATION

This bond is the bond of the series referred to in the within-mentioned Trust Agreement.

Date of Authentication:

U.S. BANK NATIONAL ASSOCIATION, as  
Trustee and Registrar and Paying Agent

By: \_\_\_\_\_  
Stephanie E. Haysley  
Vice President





# MONTGOMERY COUNTY EXECUTIVE ORDER

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Authorizing the issuance of Water Quality Protection Charge Revenue Bonds, Series 2016	Executive Order No.	Subject Suffix
Department Department of Finance	Department No. B348-16	Effective Date March , 2016

## EXHIBIT B

Preliminary Official Statement

[See Attached]

This Preliminary Official Statement and the information contained herein are subject to completion or amendment and approval by the County. These securities may not be sold nor may offers to buy be accepted prior to the time the Official Statement is delivered in final form. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation, or sale would be unlawful prior to the registration or qualification under the securities laws of any such jurisdiction.

PRELIMINARY OFFICIAL STATEMENT DATED MARCH \_\_, 2016

*In the opinion of McKennon Shelton & Henn LLP, Bond Counsel, (i) under existing law, the Series 2016 Bonds, their transfer, the interest payable on them, and any income derived from them, including any profit realized in their sale and exchange, shall be exempt at all times from every kind and nature of taxation by the State of Maryland or by any of its political subdivisions, municipal corporations or public agencies of any kind; no opinion is expressed as to estate or inheritance taxes, or any other taxes not levied or assessed directly on the Series 2016 Bonds or the interest thereon; and (ii) under existing law, interest on the Series 2016 Bonds will be excludable from gross income for federal income tax purposes under existing statutes, regulations and decisions. As described herein under "TAX MATTERS", interest earned on the Series 2016 Bonds, for federal income tax purposes, may be included in the calculation of a corporation's alternative minimum taxable income and will be subject to the branch profits tax imposed on foreign corporations.*

NEW ISSUE - FULL BOOK-ENTRY  
(See "THE SERIES 2016  
BONDS - Book-Entry Only System")

RATINGS: Fitch .....  
Standard & Poor's .....  
(See "RATINGS" herein)

**\$41,470,000\***  
**MONTGOMERY COUNTY, MARYLAND**  
**Water Quality Protection Charge Revenue Bonds**  
**Series 2016**

**Dated: Date of Initial Delivery**

**Due: As shown on inside front cover**

The Water Quality Protection Charge Revenue Bonds, Series 2016 (the "Series 2016 Bonds") are being issued by Montgomery County, Maryland (the "County") as fully registered bonds without coupons in denominations of \$5,000 or any integral multiple thereof. The Series 2016 Bonds initially will be maintained under a book-entry system and registered in the name of Cede & Co., as registered owner and nominee for The Depository Trust Company, New York, New York ("DTC"), which will act as securities depository for the Series 2016 Bonds. Interest on the Series 2016 Bonds from the date of delivery of the Series 2016 Bonds will be payable semiannually on April 1 and October 1 of each year, commencing October 1, 2016. So long as the Series 2016 Bonds are maintained under a book-entry system, payments of the principal of and premium, if any, and interest on the Series 2016 Bonds will be made when due by U.S. Bank National Association, as trustee (the "Trustee"), to DTC in accordance with the Trust Agreement described herein, and the Trustee will have no obligation to make any payments to any beneficial owner of the Series 2016 Bonds. See "THE SERIES 2016 BONDS - Book-Entry Only System" herein.

The County is issuing the Series 2016 Bonds for the purposes of (i) financing and refinancing the planning, design, acquisition, and construction of stormwater management facilities and other related projects as such facilities are included in and approved in the County's Capital Improvements Program, (ii) funding a debt service reserve fund for the Series 2016 Bonds, and (iii) paying the costs of issuing the Series 2016 Bonds. See "PURPOSE OF FINANCING" herein.

The Series 2016 Bonds are subject to redemption prior to maturity as described herein under THE SERIES 2016 BONDS - Redemption."

The Series 2016 Bonds are special limited obligations of the County payable solely from Pledged Revenues under the Trust Agreement and are not and shall not be deemed (i) to be general obligations of the County, (ii) to constitute obligations of the State of Maryland or any political subdivision thereof, or (iii) to constitute a debt or a pledge of the faith and credit of the County, the State of Maryland or any other political subdivision thereof within the meaning of any constitutional provision or statutory limitation or charge against the general credit or taxing power of the County or the State of Maryland.

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**FOR MATURITY SCHEDULES, INTEREST RATES AND PRICES OR YIELDS, SEE INSIDE COVER**

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*The Series 2016 Bonds are offered for delivery when, as and if issued by the County, subject to the approving legal opinion of McKennon Shelton & Henn LLP, Bond Counsel. Certain legal matters will be passed upon for the County by the County Attorney. It is expected that the Series 2016 Bonds in definitive form will be available for delivery through DTC in New York, New York, on or about April 13, 2016.*

The date of this Official Statement is \_\_, 2016.

**THIS COVER PAGE CONTAINS CERTAIN INFORMATION FOR QUICK REFERENCE ONLY. IT IS NOT A SUMMARY OF THIS ISSUE. INVESTORS MUST READ THE ENTIRE OFFICIAL STATEMENT TO OBTAIN INFORMATION ESSENTIAL TO THE MAKING OF AN INFORMED INVESTMENT DECISION.**

\*Preliminary, subject to change.

OFFICIAL STATEMENT DATED \_\_\_\_\_, 2016

\$41,470,000\*

**MONTGOMERY COUNTY, MARYLAND**  
**Water Quality Protection Charge Revenue Bonds**  
**Series 2016**



No dealer, broker, salesman or any other person has been authorized by the County to give any information or to make any representations, other than those contained in this Official Statement, and, if given or made, such other information or representations must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Series 2016 Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale. The information set forth herein has been furnished by the County and by other sources which are believed to be reliable but is not guaranteed as to accuracy or completeness.

All quotations from and summaries and explanations of provisions of laws and documents herein do not purport to be complete and reference is made to such laws and documents for full and complete statements of their provisions. This Official Statement is not to be construed as a contract or agreement between the County and the purchasers or owners of any of the Series 2016 Bonds. All statements made in this Official Statement involving estimates or matters of opinion, whether or not expressly so stated, are intended merely as estimates or opinions and not as representations of fact. The cover page hereof, inside front cover, and the appendices attached hereto are part of this Official Statement. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale of the Series 2016 Bonds shall under any circumstances create any implication that there has been no change in the affairs of the County since the date hereof.

This Official Statement contains statements relating to future results that are "forward-looking statements" as defined in the Private Securities Litigation Reform Act of 1995. When used in this Official Statement, the words "estimate," "forecast," "intend," "expect" and similar expressions identify forward-looking statements. Such statements are subject to risks and uncertainties that could cause actual results to differ materially from those contemplated in such forward-looking statements. Any forecast is subject to such uncertainties. Inevitably, some assumptions used to develop the forecasts will not be realized and unanticipated events and circumstances may occur. Therefore, there are likely to be differences between forecasts and actual results, and those differences may be material. Readers are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date hereof.

No registration statement relating to the Series 2016 Bonds has been filed with the United States Securities and Exchange Commission or with any state security agency, nor has the Trust Agreement authorizing the Series 2016 Bonds been qualified under the Trust Indenture Act of 1939, as amended, in reliance upon exemptions contained in such acts. The Series 2016 Bonds have not been approved or disapproved by the Securities and Exchange Commission or any state securities agency nor has the Securities and Exchange Commission or any state securities agency passed upon the accuracy or adequacy of this Official Statement. Any representation to the contrary may be a criminal offense.

The Trustee has neither participated in the preparation of, nor reviewed, this Official Statement.

\* Preliminary, subject to change.

**MONTGOMERY COUNTY, MARYLAND  
OFFICIAL ROSTER OF COUNTY OFFICIALS**

**COUNTY EXECUTIVE**

Isiah Leggett

**COUNTY COUNCIL**

Nancy Floreen	<i>President</i>
Roger Berliner	<i>Vice President</i>
George L. Leventhal	
Sidney Katz	
Marc Elrich	
Tom Hucker	
Craig Rice	
Hans Riemer	
Nancy Navarro	

The terms of the County Executive and all County Council members expire in December 2018.

**APPOINTED OFFICIALS**

Timothy L. Firestine	<i>Chief Administrative Officer</i>
Joseph F. Beach	<i>Director, Department of Finance</i>
Jennifer A. Hughes	<i>Director, Office of Management and Budget</i>
Marc P. Hansen	<i>County Attorney</i>
Linda M. Lauer	<i>Clerk of the Council</i>

**BOND COUNSEL**

McKennon Shelton & Henn LLP  
Baltimore, Maryland

**FINANCIAL ADVISOR**

Public Financial Management  
Philadelphia, Pennsylvania

**INDEPENDENT PUBLIC ACCOUNTANTS**

CliftonLarsonAllen LLP  
Timonium, Maryland

**DEBT MANAGEMENT AND DISCLOSURE INFORMATION**

Montgomery County Department of Finance  
101 Monroe Street  
Rockville, Maryland 20850  
240-777-8860  
240-777-8857 (Fax)  
<http://bonds.montgomerycountymd.gov>

## **The Series 2016 Bonds**

The Series 2016 Bonds will be dated their date of delivery and will bear interest from their date, payable on October 1, 2016 and semiannually thereafter on each April 1 and October 1, at the rate or rates set forth on the inside front cover. The principal on the Series 2016 Bonds will be payable on April 1 in the years and amounts set forth on the inside front cover. The Series 2016 Bonds are issuable only as fully registered bonds without coupons in the denomination of \$5,000 or any integral multiple thereof. The Series 2016 Bonds are subject to redemption at the option of the County as described below. See "THE SERIES 2016 BONDS."

## **The County**

See the caption "THE COUNTY" for information regarding the County.

## **Security for the Series 2016 Bonds**

The Series 2016 Bonds and any Additional Bonds issued under the Trust Agreement are special limited obligations of the County payable solely from and equally and ratably secured by (i) the Pledged Revenues (as defined herein), and (ii) certain funds established under the Trust Agreement (excluding the Rebate Fund), including the Debt Service Reserve Fund, and including the investments of money on deposit in such funds.

The Series 2016 Bonds are not a debt of the State of Maryland or any political subdivision thereof, including the County, within the meaning of any constitutional, charter or statutory debt limit or restriction. Neither the full faith and credit nor the taxing power of the State of Maryland or any political subdivision thereof, including the County, is pledged to the payment of the Series 2016 Bonds. Only the County is obligated to pay the principal of or premium, if any, and interest on the Series 2016 Bonds, and such obligation of the County is payable solely from the Pledged Revenues and other moneys pledged therefor. See "SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2016 BONDS."

## **Additional Bonds**

Under the Trust Agreement, the County may issue Additional Bonds on parity with Series 2016 Bonds, subject to the satisfaction of certain conditions. See "SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2016 BONDS – Additional Bonds" and "SUMMARY OF CERTAIN PROVISIONS OF THE TRUST AGREEMENT" in Appendix A.

## **Additional Information**

This Official Statement contains brief descriptions of, among other things, the Series 2016 Bonds, the Trust Agreement, the County and the Projects (as defined below). Such descriptions do not purport to be comprehensive or definitive. All references in this Official Statement to laws and documents are qualified in their entirety by reference to such laws and documents; references to the Series 2016 Bonds are qualified in their entirety by reference to the form of the Series 2016 Bonds included in the Trust Agreement. Copies of the Trust Agreement and other agreements described in this Official Statement may be obtained upon written request from the County.

## **AUTHORIZATION**

The Series 2016 Bonds are authorized to be issued pursuant to (i) Section 10-203 of the Local Government Article of the Annotated Code of Maryland (2013 Replacement Volume and 2015

stormwater management facilities. The County has completed 1,774 acres of restoration towards its 3,777 acre goal. Of the 1,774 acres completed, 697 acres has been completed thus far through the CIP. The other 1,077 acres completed were done through other County programs, partnerships and redevelopment. The remaining 2,003 acres not completed are either in design or construction in the CIP program. The environmental benefits of these projects include improved stream conditions in many watersheds in the county and continued progress in meeting reductions in pollutants such as nitrogen and phosphorus entering the local waterways and the Chesapeake Bay.

## **The Projects**

As part of the County's compliance with the MS4 permit, a major ramp up of stormwater management capital projects was approved in the County's Approved Fiscal Year ("FY") 2015-2020 Stormwater Capital Improvement Program. Using proceeds from the Montgomery County, Maryland Water Quality Protection Charge Revenue Bonds Series 2012A (the "2012 Bond Issue"), as well as funds from the Water Quality Protection Charge, implementation of the MS4 Permit restoration requirement is being accomplished through the planning, design, acquisition, and construction of the following stormwater management projects identified in the County's Stormwater Capital Improvement Program: See "STORMWATER MANAGEMENT PROGRAM -- The Stormwater Capital Improvement Program."

*Stormwater Management Retrofit – Countywide.* The Stormwater Management Retrofit Countywide project provides for the design and construction of new and/or the upgrade of existing underperforming stormwater management facilities and devices (primarily stormwater ponds). Representative sub-projects include the upgrade of the following stormwater ponds: Bedfordshire, Falls Reach, Metro Park, Montgomery Manor, Whetstone Run II, Hunter's Woods, Quail Valley, Seneca Whetstone, Collingwood, Strawberry Knolls, Magruder Branch, Seneca Park and Plumgar.

*Miscellaneous Stream Valley Improvements.* The Miscellaneous Stream Valley Improvements project provides for design and construction of habitat restoration or stabilization measures to improve local stream habitat conditions where streams have been damaged by inadequately controlled stormwater runoff. Corrective measures constructed or coordinated under this project include streambank stabilization, channel modifications, habitat restoration, stormdrain outfall or sanitary sewer infrastructure repairs to improve fish and other biological resources, while reducing sediment and nutrient loadings caused by excessive streambank erosion. Representative sub-projects include the restoration of the following streams: Bedfordshire, Falls Reach, Flints Grove, Stoneybrook, and Gunners Branch.

*Watershed Restoration - Interagency.* The Watershed Restoration – Interagency project provides for the design and construction of stormwater management retrofits and stream restoration projects which manage stormwater runoff, enhance aquatic habitat and improve water quality in County streams. This project is implemented under interagency agreements with the U.S. Army Corps of Engineers. Representative sub-projects include: Bel Pre tributary and Quaint Acres tributary.

*Stormwater Management Facility Major Structural Repair.* The Stormwater Management Facility Major Structural Repair project provides for the design and construction of major structural repairs to County-maintained stormwater management facilities, which includes over 2,000 stormwater management facilities. These are primarily older facilities requiring maintenance beyond what is provided under the routine maintenance program. While this project does not address impervious area requirements, it supports the overall stormwater facility capital investment. Representative sub-projects include: repair of Chadwood Pond outfall pipes, repair of Lake Whetstone riser, and dredging of Lake Whetstone and Gunners Lake.

- Washington Suburban Sanitary Commission stream restoration completed as part of their Sanitary Sewer Overflow Consent Decree.

*[The remainder of this page has been left blank intentionally.]*

## **Registration and Exchange of Series 2016 Bonds**

So long as the Series 2016 Bonds are maintained under a book-entry system, Beneficial Owners thereof will have no right to receive physical possession of the Series 2016 Bonds, and transfers of ownership interests in the Series 2016 Bonds will be made through book-entries by The Depository Trust Company ("DTC") and the Direct Participants. See "Book-Entry Only System" below.

If the book-entry system is discontinued, upon surrender of the Series 2016 Bonds at the designated office of the Registrar and Paying Agent, together with an assignment duly executed by the registered owner or the attorney or legal representative of such owner in such form as shall be satisfactory to the Registrar and Paying Agent, such Series 2016 Bonds will be exchanged for an equal aggregate principal amount of Series 2016 Bonds of the same maturity, of any authorized denomination or denominations, and bearing interest at the same rate as the Series 2016 Bonds surrendered for exchange.

The transfer of any Series 2016 Bond may be registered only upon the books kept for the registration and transfer of the Series 2016 Bonds upon surrender of such Series 2016 Bond to the Registrar and Paying Agent, together with an assignment duly executed by the registered owner or the attorney or legal representative of such owner in such form as shall be satisfactory to the Registrar and Paying Agent.

Upon any exchange or registration of transfer, the County shall execute, and the Registrar and Paying Agent shall authenticate and deliver in exchange for such Series 2016 Bond, within a commercially reasonable time according to then-prevailing industry standards, a new Series 2016 Bond or Series 2016 Bonds, registered in the name of the transferee, of any authorized denomination or denominations, in an aggregate principal amount equal to the principal amount of the Series 2016 Bond surrendered, of the same maturity and bearing interest at the same rate.

The County or the Registrar and Paying Agent may make a charge for every such exchange or registration of transfer of Series 2016 Bonds sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or registration of transfer, but no other charge shall be made to any Bondholder for the privilege of exchanging or registering the transfer of Series 2016 Bonds under the provisions of the Trust Agreement.

## **Redemption**

### ***Optional Redemption\****

Series 2016 Bonds maturing on or prior to April 1, 2024 are not subject to redemption prior to their stated maturities. Series 2016 Bonds maturing on or after April 1, 2025 are subject to redemption on or after April 1, 2024 in whole or in part at any time at the option of the County, at a Redemption Price equal to 100% of the principal amount thereof, together with interest accrued to the date fixed for redemption.

### ***[Mandatory Sinking Fund Redemption]***

The Series 20\_\_ Bonds maturing on April 1, 20\_\_ are required to be redeemed prior to maturity, at a Redemption Price of 100% of the principal amount thereof, plus interest accrued to the redemption date, from mandatory Sinking Fund Installments due on April 1 of the years and in the amounts shown below.

\*Preliminary, subject to change.



redemption shall be on deposit at that time with the Trustee and that all conditions to such redemption shall have been satisfied.

### **Book-Entry Only System**

*The information contained in the following paragraphs of this subsection "Book-Entry Only System" has been extracted from a schedule prepared by DTC entitled "SAMPLE OFFERING DOCUMENT LANGUAGE DESCRIBING BOOK-ENTRY ONLY ISSUANCE." The County makes no representation as to the completeness or the accuracy of such information or as to the absence of material adverse changes in such information subsequent to the date hereof.*

The Depository Trust Company ("DTC"), New York, New York, will act as securities depository for the Series 2016 Bonds. The Series 2016 Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Series 2016 Bond certificate will be issued for each maturity of the Series 2016 Bonds in principal amount equal to the aggregate principal amount of the Series 2016 Bonds of such maturity, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

Purchases of Series 2016 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Bonds, except in the event that use of the book-entry system for the Series 2016 Bonds is discontinued.

The information provided above under this caption has been obtained from DTC. The County takes no responsibility for the accuracy or completeness thereof. The County will have no responsibility or obligation to DTC Participants or the persons for whom they act as nominees with respect to the payments to or the providing of notice to the DTC Participants, or the Indirect Participants, or Beneficial Owners. The County cannot and does not give any assurance that DTC Participants or others will distribute principal and interest payments paid to DTC or its nominees, as the registered owner, or any redemption or other notices, to the Beneficial Owners, or that they will do so on a timely basis or that DTC will serve and act in the manner described in this Official Statement.

### **Special Considerations**

Because DTC can only act on behalf of Direct Participants, who in turn act on behalf of Indirect Participants and certain banks, the ability of a Beneficial Owner to pledge Series 2016 Bonds to persons or entities that do not participate in the DTC system, or otherwise take actions in respect of such Series 2016 Bonds, may be limited due to the lack of a physical certificate for such Series 2016 Bonds.

Under its current procedures, DTC does not automatically forward redemption and other notices to its Participants who have Series 2016 Bonds credited to their accounts. Rather, a notice that DTC has received a notice is entered onto an electronic computer network which DTC shares with its Direct Participants, and such Direct Participants may obtain the full text of such notices upon request. Neither the County, the Trustee, nor the Registrar and Paying Agent have control over whether or how timely redemption and other notices are made available by DTC to its Direct Participants, by Direct Participants to Indirect Participants and by Direct Participants and Indirect Participants to Beneficial Owners of the Series 2016 Bonds.

### **Termination of Book-Entry Only System**

DTC may discontinue providing its services as securities depository with respect to the Bonds at any time by giving reasonable notice to the County. Under such circumstances, in the event that a successor securities depository is not obtained, Bond certificates are required to be printed and delivered. The County may also decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered.

In the event that the Book-Entry Only System is discontinued, the Series 2016 Bonds in fully certificated form will be issued as fully registered Series 2016 Bonds without coupons in the denomination of \$5,000 each or any integral multiple thereof. Such Series 2016 Bonds will be transferable only upon the registration books kept at the principal office of the Paying Agent/Registrar, by the registered owner thereof in person, or by an attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer in the form attached thereto and satisfactory to the Paying Agent/Registrar, and duly executed by the registered owner or a duly authorized attorney. Within a reasonable time of such surrender, the County shall cause to be issued in the name of the transferee a new registered Series 2016 Bond or Series 2016 Bonds of any of the authorized denominations in an aggregate principal amount equal to the principal amount of the Series 2016 Bond surrendered and maturing on the same date and bearing interest at the same rate. The new Series 2016 Bond or Series 2016 Bonds shall be delivered to the transferee only after due authentication by an authorized officer of the Paying Agent/Registrar. The County may deem and treat the person in whose name a Series 2016 Bond is registered as the absolute owner thereof for the purpose of receiving payment of or on account of the principal or redemption price thereof and interest due thereon and for all other purposes.

In the event that the Book-Entry Only System is discontinued, the Series 2016 Bonds may be transferred or exchanged at the principal office of the Paying Agent/Registrar. Upon any such transfer or

defined) deposited by the County into the Pledged Revenues Fund, (ii) interest earnings on the funds and accounts created under the Trust Agreement, and (iii) all rights of the Trustee to receive such Revenues required to be deposited under the Trust Agreement and the proceeds of such rights, whether now existing or hereafter coming into existence. As defined in the Trust Agreement "Revenues" means WQPC revenues, together with other revenues of the County including the Carryout Bag Tax (as hereinafter defined), which are deposited into the County's Water Quality Protection Fund (as hereinafter defined), together with interest thereon. The Revenues and other amounts deposited into the Water Quality Protection Fund are not pledged to the payment of the Series 2016 Bonds.

### **Rate Covenant**

The County covenants, subject to any lawful regulation by the United States of America, that it will fix, revise, charge and collect the WQPC (as hereinafter defined) and must revise the WQPC as may be necessary or appropriate to produce Revenues in each Bond Year, which after payment of Operating Expenses (as hereinafter defined) in an amount not less than the sum of (1) one hundred fifteen percent (115%) of the amount of the Debt Service Requirements for such Bond Year of all outstanding Series 2016 Bonds and any Parity Indebtedness then outstanding, (2) 100% of the Debt Service Requirements of all other outstanding Long-Term Indebtedness for such Bond Year, and (3) 100% of the amount set forth in the Annual Budget to be deposited to the Rate Stabilization Fund for such Bond Year. Such covenant is referred to herein as the "Rate Covenant". As defined in the Trust Agreement "Operating Expenses" means all expenses incurred by the County in operating or maintaining its stormwater management facilities or causing such facilities to be operated and maintained in good repair, working order, and in compliance with applicable State and federal laws.

If the amount of the Revenues in any Bond Year shall be less than the amount referred to above for such Bond Year, as soon as practicable after the last day of such Bond Year (but in no event more than 120 days after the last day of such Bond Year), the County shall employ an Independent Consultant to prepare a Report including recommendations with respect to the WQPC. The County shall require the Independent Consultant to file its report with the County and the Trustee within 30 days after the date of its employment by the County pursuant to this Section; provided that the County may extend the time for the filing by the Independent Consultant of its report to the extent reasonably necessary to enable the Independent Consultant to complete such report, if the Independent Consultant files a request for such an extension with the County and the Trustee containing an estimated completion date for such report, stating that the Independent Consultant is proceeding diligently to complete its report, and that its report cannot reasonably be completed within the time allowed by this paragraph.

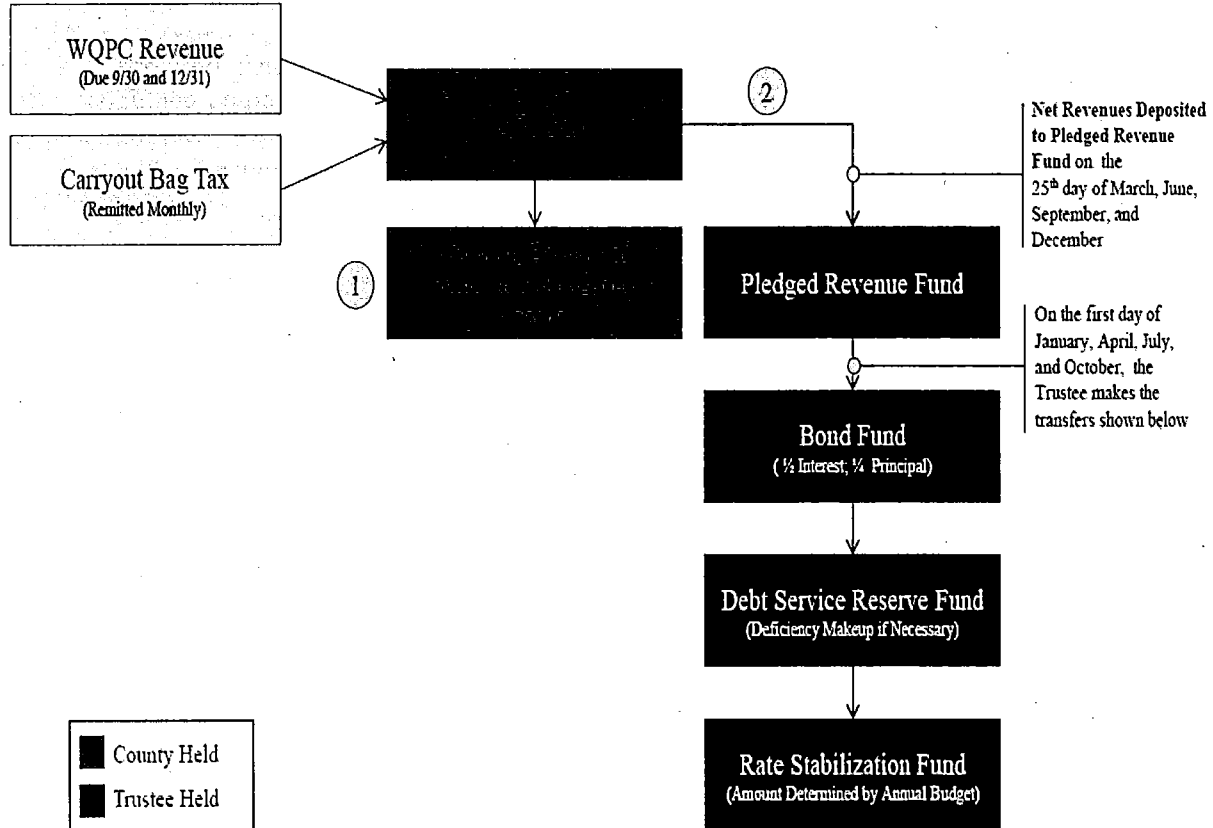
The Independent Consultant may recommend with respect to the WQPCs, either that the County (i) increase the WQPC by an amount calculated to be sufficient to result in compliance with the provisions of the Trust Agreement, (ii) make no change, or (ii) make some change, even though such recommendation is not calculated to result in compliance with the provisions of the Trust Agreement. The County may revise the WQPC in conformity with any practicable recommendation of the Independent Consultant and shall otherwise follow any practicable recommendation of the Independent Consultant. If the County complies with the reasonable recommendations of such Independent Consultant, then the failure of the County to meet the requirements of the Trust Agreement for such Bond Year shall not constitute an Event of Default under the Trust Agreement.

### **Rate Policy**

The County's current policy is to assess the WQPC in a manner that generates sufficient Pledged Revenues for a debt service coverage for the Series 2016 Bonds of at least 125% of the amount of the

## Flow of Revenues

### Revenues



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## Authority for WQPCs

### *State Law*

Pursuant to Section 4-204 of the Environment Article of the Maryland Code, counties and municipalities in the State of Maryland may adopt a system of charges to fund the implementation of stormwater management programs, including: (i) reviewing stormwater management plans, (ii) inspection and enforcement activities, (iii) watershed planning, (iv) planning, design, land acquisition, and construction of stormwater management systems and structures, (v) retrofitting developed areas for pollution control, (vi) water quality monitoring and water quality programs, (vii) operation and maintenance of facilities, and (viii) program development of the foregoing activities. Section 4-204 of the Environment Article authorizes the implementation of such a system of charges through local legislation.

On April 6, 2012, the Maryland General Assembly passed House Bill 987, which was approved by the Governor of the State and enacted on May 2, 2012 as Chapter 151 of the 2012 Laws of Maryland ("Chapter 151"). Chapter 151 added Section 4-202.1 to the Environment Article ("EN") of the Annotated Code of Maryland and required each county and municipal corporation that was subject to National Pollutant Discharge Elimination System ("NPDES") Phase I MS4 permitting requirements to adopt local laws necessary to establish a watershed protection and restoration program consisting of a stormwater remediation fee and a local watershed protection and restoration fund. The purpose of the watershed protection and restoration fund was to provide financial assistance for the implementation of stormwater management plans through stormwater management practices and stream and wetland restoration activities. However, EN § 4-202.1, as enacted under Chapter 151, exempted Phase I jurisdictions that, on or before July 1, 2012, had enacted and implemented a system of charges under Section 4-204 of the Environment Article for the purpose of funding a watershed protection and restoration program, or similar program, in a manner consistent with the requirements of EN § 4-202.1. Although it was assumed that the exemption was intended to apply to the County, the County nonetheless amended County Code Section 19-35, which established the WQPC, to comply with the provisions of EN § 4-202.1 that mandated the establishment of both a credit program and a financial hardship exemption program. See "*County Law – Legislation*" *infra*. In 2015, the General Assembly amended EN § 4-202.1 by enacting Senate Bill 863 to simply authorize, but no longer mandate, local adoption of a stormwater remediation fee. The County, having enacted the WQPC under EN § 4-204, was unaffected by this change.

### *County Law*

As authorized by State law, on November 20, 2001, the Montgomery County Council (the "County Council") passed Chapter 27 of the Laws of Montgomery County 2001, which was approved by the County Executive of the County and effective on February 27, 2002 (the "Act"). The Act was added to Chapter 19 of the Montgomery County Code (the "County Code") as Section 19-35. Section 19-35 (a) authorizes the imposition of the WQPC and the rate for such charge is set by County Council resolution effective July 1 each levy year. WQPC revenues must be deposited into the stormwater management fund (the "Water Quality Protection Fund") and used only for stormwater management programs as authorized by State and County law. Section 19-35 (f) authorizes the County to use the WQPC to pay debt service on the Series 2016 Bonds. Section 19-35 (b) provides for the WQPC to be imposed and administered as provided by regulations adopted by the County. Those regulations are codified at Section 19.35.01 of the Code of Montgomery County Regulations ("COMCOR").

In accordance with Section 19-35 (b), the WQPC is calculated based on an impervious units formula derived from the median impervious area of single-family residential properties that are subject to the WQPC. That median impervious area is calculated to be 2,406 square feet, which is the Equivalent Residential Unit (ERU) or the base unit for computing the WQPC. The ERU base of 2,406 square feet is

Pursuant to Section 4-204 of the Environment Article and Section 19-35 of the County Code, revenues generated by WQPC must be used for stormwater related programs. The programs that Montgomery County uses the funds for include:

- Construction, operation, and maintenance of stormwater management facilities, and related expenses;
- Environmentally sensitive design installations (e.g., rain gardens, bio swales, sand filters, bio-retention basins);
- Stream restoration;
- Special Protection Area Best Management Practice Monitoring;
- Stormwater Outfall Monitoring;
- Watershed Restoration;
- Water quality monitoring and water quality programs;
- Retrofitting of stormwater facilities;
- Inspection and maintenance of stormwater management facilities;
- Street sweeping;
- Operating expenses; and
- Debt service.

### ***Legislation***

In light of the enactment of Chapter 151, the County introduced legislation to amend Chapter 19 of the County Code to establish certain programs in compliance with the provisions of Chapter 151. Bill No. 34-12, enacted by the County Council on April 16, 2013 and effective July 1, 2013, amended Chapter 19 of the County Code as follows:

- Imposed the WQPC on all nonresidential properties;
- Established a credit for nonresidential or multifamily residential property owners if the property contains a stormwater management system maintained by such owner in accordance with the maintenance requirements of the Department of Environmental Protection; and
- Established an exemption from the WQPC for property owners who demonstrate a substantial financial hardship.

In 2015, the County Council enacted Expedited Bill No. 45-15 ("Bill 45-15"). Bill 45-15 amends County Code Sections 19-21 and 19-35 to designate the WQPC as an excise tax imposed under the County's general taxing authority and ratify the collection of all stormwater management charges levied under Section 19-35 since July 1, 2013. Bill 45-15 also continues the levy and collection of the WQPC under the same terms and conditions set out in the Section 19-35 prior to its enactment.

### **WQPC Rates**

The WQPC rate is recommended by the County Executive and set by the County Council by resolution. As of July 1, 2015 (FY2016), the WQPC rate is \$88.40 per Equivalent Residential Unit ("ERU"). The WQPC rates in effect from July 1, 2006 through July 1, 2015 are:

2013	99.85
2014	99.79
2015	99.64

<sup>1</sup> based on data provided by Montgomery County  
Department of Finance, Treasury Division

Municipalities within the County that have their own stormwater management programs are not subject to the WQPC. These municipalities include the City of Gaithersburg, City of Rockville and the City of Takoma Park.

#### **Major Customers**

The following table provides information on the ten largest property owners in the County paying the WQPC as of February 1, 2016.

Owner	Impervious Area (sq. ft.)	ERUs	% of Total ERUs	WQPC
GENON MID-ATLANTIC LLC	2,581,525	1,073	0.29%	\$94,849
WHEATON PLAZA REG SHOP CTR	2,504,832	1,041	0.28%	92,031
BARDON INC	1,080,515	449	0.12%	39,700
CONGRESSIONAL COUNTRY CLUB INC	1,046,808	435	0.12%	38,461
WHITE FLINT ASSOCIATES LLC	952,187	396	0.11%	34,985
MONTGOMERY MALL LLC	865,180	360	0.10%	31,788
SUMMIT HILLS LLC	829,581	345	0.09%	30,480
GEORGETOWN PREP SCHOOL INC	813,096	338	0.09%	29,874
POTOMAC ELECTRIC POWER CO	781,192	325	0.09%	28,702
BARDON INC	701,149	291	0.08%	25,761

#### **Carryout Bag Tax**

On May 3, 2011, the County Council passed Bill 8-11 (the "Legislation") to establish the Carryout Bag Tax (the "Carryout bag Tax"). The Legislation was effective January 2012. Pursuant to County Code Section 52-102, a \$0.05 charge is imposed on each paper or plastic carryout bag provided by retail establishments in the County to customers at the point of sale, pickup or delivery. Retailers retain \$0.01 of each \$0.05 cents for the bags they sell to a customer. Revenues generated by the Carryout Bag Tax are deposited to the Water Quality Protection Fund and used to meet State-mandated MS4 Permit requirements.

#### **FINANCIAL INFORMATION**

The Table below provides historical financial data for FY2011 to FY2015. During this period, the WQPC has increased in order to fund WQPC programs.

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## **PROJECTED FINANCIAL PERFORMANCE AND DEBT SERVICE COVERAGE**

The Department submits an annual operating budget to the County's Office of Management and Budget, which includes the projected financial performance of the Water Quality Protection Fund including the annual recommended WQPC rate, a 5-year projection and estimated debt service of future bond issues. On the following page is a table showing the projected WQPC revenues after giving effect to the issuance of the Series 2016 Bonds.

*[Table appears on the next page.]*



## **Future Financings**

The County may issue additional bonds to fund future stormwater management facilities. For future financings, the County will set the WQPC rate as necessary to comply with the Rate Covenant.

## **STORMWATER MANAGEMENT PROGRAM**

### **Organization and Management**

The Department is an agency of the County and is responsible for the maintenance and operation of all public and private stormwater management facilities within the County. The mission of The Department is to enhance the quality of life in the community by protecting and improving Montgomery County's air, water and land in a sustainable way while fostering smart growth, a thriving economy and healthy communities. The Department is comprised of the following divisions:

- Division of Solid Waste Services
- Division of Environmental Policy and Compliance
- Watershed Management Division

In addition, through the Director's office, the Department generates and administers the WQPC revenue. The Watershed Management Division provides watershed-based monitoring; planning and policy development; stormwater facility inspection and maintenance and manages the Stormwater Capital Improvement Program. The Watershed Management Division also manages compliance with the permit issued by the Maryland Department of the Environment. See "Regulatory Compliance."

The following comprise the management and staff of the Department responsible for the management of the Projects and other stormwater management facilities within the County:

**Elisabeth G. Feldt** serves as the Director of the Department of Environmental Protection in Montgomery County, Maryland. She oversees the divisions/staffs listed above with a combined operating budget of approximately \$137 million. She leads the coordinated response to the State of Maryland-issued municipal separate stormwater permit that covers runoff in most of the County including all public school property. She represents the County at regional water and sewer utilities and commissions; and is responsible for County programs and legislative initiatives on energy, air quality, noise, climate change, litter, streams/watersheds, stormwater and more than a dozen other areas that impact the environment. She leads the Solid Waste Management program for Montgomery County which ensures that the solid waste generated in the county is managed in a safe, environmentally sound manner and encourages the reduction of waste generated by residents and businesses in the county. Prior to serving in local government, Ms. Feldt formerly served as Acting Deputy Administrator and Associate Deputy Administrator for the Environmental Protection Agency (EPA, US Government); Deputy Assistant Administrator for EPA's Office of Solid Waste and Emergency Response; Principal and Owner of Integrated Management and Environmental Solutions (a project management and environmental consulting services firm); Chief of Staff to the Assistant Secretary for Environmental Management at the Department of Energy (DOE, US Government); Director of EPA's Program Integration Office; and Director of EPA's Nuclear Materials Compliance Division (Office of Environmental Compliance). Prior to these management positions, Ms. Feldt was the Senior Environmental Engineer for EPA's Office of Radiation Programs; and Environmental Engineer for EPA's Superfund Office. Ms. Feldt holds a B.S. in Civil Engineering from Union College and George Washington University; and has authored numerous publications. She has worked in the environmental and solid waste fields for more than 30 years.

for an additional 20 percent or 3,777 acres of the County's impervious surfaces that do not currently have stormwater management to the maximum extent practicable. Watershed feasibility planning studies set priorities for pursuing individual design and construction of the capital projects.

Historically, the Stormwater Capital Improvement Program was primarily funded with general obligation bonds of the County, current revenues, and permit waiver fees. In addition, some Stormwater Capital Improvement Program projects were partially funded with State aid through grants and partnerships.

The County expects that the total costs for the Projects as approved in the Stormwater Capital Improvement Program and described under "PURPOSE OF FINANCING – The Projects" to be approximately \$381,110,000.

**FY15-20 STORMWATER CIP PROJECTS/  
CASHFLOWS OF STORMWATER MANAGEMENT FUND**

*Projects  
(\$000s)*

Project No.	Project	6-year total	FY15	FY16	FY17	FY18	FY19	FY20
808726	SM Retrofit - Countywide	\$146,470	\$18,726	\$22,968	\$23,408	\$23,732	\$27,696	\$29,940
807359	Misc. Stream Valley Improvement	42,573	6,393	5,440	9,640	8,900	6,100	6,100
809342	Watershed Restoration - Interagency	2,060	310	350	350	350	350	350
800700	SM Facility Major Structural Repair	23,070	7,530	3,540	3,000	3,000	3,000	3,000
800900	SM Retrofit - Government Facilities	17,732	3,026	2,816	2,820	3,270	2,900	2,900
801300	SM Retrofit - Roads	98,420	12,740	14,080	26,320	16,010	15,170	14,100
801301	SM Retrofit - Schools	24,930	3,470	6,280	3,480	3,900	3,900	3,900
809319	Facility Planning: SM	7,679	1,150	1,250	1,250	1,250	1,340	1,439
509948	Outfall Repairs	2,700	426	426	462	462	462	462
500320	Storm Drain General	5,016	800	800	854	854	854	854
501470	Storm Drain Culvert Replacement	8,800	1200	2800	1200	1200	1200	1200
508180	Facility Planning: Storm Drains	1,660	250	250	290	290	290	290
	<b>Total</b>	<b><u>\$381,110</u></b>	<b><u>\$56,021</u></b>	<b><u>\$61,000</u></b>	<b><u>\$73,074</u></b>	<b><u>\$63,218</u></b>	<b><u>\$63,262</u></b>	<b><u>\$64,535</u></b>

*Sources of Funds (\$ 000s)*

Funding Source	6-year total	FY15	FY16	FY17	FY18	FY19	FY20
State & Federal Aid	\$58,263	\$10,000	\$8,263	\$10,000	\$10,000	\$10,000	\$10,000
Water Quality Protection Bonds	293,806	42,195	38,811	56,684	51,678	51,632	52,806
Water Quality Protection Charge	29,041	3,826	13,926	6,390	1,540	1,630	1,729
<b>Total</b>	<b><u>\$381,110</u></b>	<b><u>\$56,021</u></b>	<b><u>\$61,000</u></b>	<b><u>\$73,074</u></b>	<b><u>\$63,218</u></b>	<b><u>\$63,262</u></b>	<b><u>\$64,535</u></b>

**Regulatory Compliance**

*Federal*

efforts and increases sustainability. In addition to the County's MS4 Permit, the County is part of the Chesapeake Bay watershed and is subject to the Chesapeake Bay TMDL.

Protracted litigation that originated with several environmental groups challenging the adequacy of the 2010 MS4 Permit's requirements under state and federal law eventually resulted in a remand of the permit by the Maryland Court of Special Appeals to MDE for further consideration and revision. The legal effect of the court's invalidation of the 2010 permit was to leave in place the County's 2<sup>nd</sup> generation MS4 permit which was issued in 2001, thereby making it the applicable permit for the purpose assessing County compliance with permit requirements. The County is in compliance with the currently applicable MS4 Permit requirements. Despite the remand, however, the Department continues to make progress toward meeting the requirements of the permit issued in 2010 and is in regular contact with the State of Maryland regarding that progress.

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## **TAX MATTERS**

### **Maryland Income Taxation**

In the opinion of Bond Counsel, under existing law, the Series 2016 Bonds, their transfer, the interest payable on them, and any income derived from them, including any profit realized in their sale or exchange, shall be exempt at all times from every kind and nature of taxation by the State of Maryland or by any of its political subdivisions, municipal corporations or public agencies of any kind. No opinion is expressed as to estate or inheritance taxes, or any other taxes not levied or assessed directly on the Series 2016 Bonds or the interest thereon. Interest on the Series 2016 Bonds may be subject to state or local income taxes in jurisdictions other than the State of Maryland under applicable state or local tax laws. Purchasers of the Series 2016 Bonds should consult their own tax advisors with respect to the taxable status of the Series 2016 Bonds in jurisdictions other than Maryland.

### **Federal Income Taxation**

In the opinion of Bond Counsel, assuming compliance with certain covenants described herein, interest on the Series 2016 Bonds will be excludable from gross income for federal income tax purposes under existing statutes, regulations, and decisions.

In rendering its opinion with respect to the Series 2016 Bonds, Bond Counsel will rely, without independent investigation, on certifications provided by the County with respect to certain material facts within its knowledge relevant to the tax-exempt status of interest on the Series 2016 Bonds.

Under the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), there are certain restrictions that must be met subsequent to the delivery of the Series 2016 Bonds, including restrictions that must be complied with throughout the term of the Series 2016 Bonds in order that the interest thereon be excludable from gross income. These include the following: (i) a requirement that certain earnings received from the investment of the proceeds of the Series 2016 Bonds be rebated to the United States of America under certain circumstances (or that certain payments in lieu of rebate be made); (ii) other requirements applicable to the investment of the proceeds of the Series 2016 Bonds; and (iii) other requirements applicable to the use of the proceeds of the Series 2016 Bonds and the facilities financed or refinanced with such proceeds. Failure to comply with one or more of these requirements could result in the inclusion of the interest payable on the Series 2016 Bonds in gross income for federal income tax purposes, effective from the date of their issuance. The County has covenanted to regulate the investment of the proceeds of the Series 2016 Bonds and to take such other actions as may be required to maintain the excludability from gross income for federal income tax purposes of interest on the Series 2016 Bonds.

Interest on the Series 2016 Bonds will not be includable in the alternative minimum taxable income of individuals, corporations or other taxpayers as an enumerated item of tax preference or other specific adjustment. However, for purposes of calculating the corporate alternative minimum tax, a corporation subject to tax may be required to increase its alternative minimum taxable income by 75% of the amount by which its "adjusted current earnings" exceed its alternative minimum taxable income (computed without regard to this current earnings adjustment and the alternative tax net operating loss deduction). For such purposes, "adjusted current earnings" could include, among other items, interest income from the Series 2016 Bonds. In addition, interest income on the Series 2016 Bonds will be subject to the branch profits tax imposed by the Code on foreign corporations engaged in a trade or business in the United States of America.

would have accrued for that compounding period for federal income tax purposes is to be apportioned in equal amounts among the days in such compounding period.

Holders of Discount Bonds should note that, under the tax regulations, the yield and maturity of a Discount Bond is determined without regard to commercially reasonable sinking fund payments, and any original issue discount remaining unaccrued at the time that a Discount Bond is redeemed in advance of stated maturity will be treated as taxable gain. Moreover, tax regulations prescribe special conventions for determining the yield and maturity of certain debt instruments that provide for alternative payment schedules applicable on the occurrence of certain contingencies. The prices or yields furnished by the successful bidder for the Series 2016 Bonds as shown on the inside cover of this Official Statement may not reflect the initial issue prices for the purposes of determining the original issue discount for federal income tax purposes.

The foregoing summarizes certain federal income tax consequences of original issue discount with respect to the Discount Bonds but does not purport to deal with all aspects of federal income taxation that may be relevant to particular investors or circumstances, including those set out above. Prospective purchasers of Discount Bonds should consider possible state and local income, excise or franchise tax consequences arising from original issue discount on Discount Bonds. In addition, prospective corporate purchasers should consider possible federal tax consequences arising from original issue discount on such Discount Bonds under the alternative minimum tax or the branch profits tax. The amount of original issue discount considered to have accrued may be reportable in the year of accrual for state and local tax purposes or for purposes of the alternative minimum tax or the branch profits tax without a corresponding receipt of cash with which to pay any tax liability attributable to such discount. Purchasers with questions concerning the detailed tax consequences of transactions in the Discount Bonds should consult their tax advisors.

### **Purchase, Sale and Retirement of Series 2016 Bonds**

Except as noted below in the case of market discount, the sale or other disposition of a Series 2016 Bond will normally result in capital gain or loss to its holder. A holder's initial tax basis in a Series 2016 Bond will be its cost. Upon the sale or retirement of a Series 2016 Bond, for federal income tax purposes, a holder will recognize capital gain or loss upon the disposition of such security (including sale, early redemption or payment at maturity) in an amount equal to the difference between (a) the amount received upon such disposition and (b) the tax basis in such Series 2016 Bond, determined by adding to the original cost basis in such Series 2016 Bond the amount of original issue discount that is treated as having accrued as described above under "*Tax Matters — Tax Accounting Treatment of Discount Bonds.*" Such gain or loss will be a long-term capital gain or loss if at the time of the sale or retirement the Series 2016 Bond has been held for more than one year. Present law taxes both long and short-term capital gains of corporations at the rates applicable to ordinary income. For noncorporate taxpayers, however, net capital gains will be taxed at a maximum rate of 15%, while short-term capital gains and other ordinary income will be taxed at a maximum rate of 35%. Net capital gains are the excess of net long-term capital gains (gains on capital assets held for more than one year) over net short-term capital losses. Because of the limitation on itemized deductions and the deduction for personal exemptions applicable to higher income taxpayers, the effective rate of tax may be higher in certain circumstances. The operation of sunset, effective date and similar timing provisions in current law would result in a change in the tax rates in certain future time periods.

### **Market Discount**

If a holder acquires a Series 2016 Bond after its original issuance at a discount below its principal amount (or in the case of a Series 2016 Bond issued at an original issue discount, at a price that produces

## LITIGATION

The County is currently processing numerous claims for damages and is also a defendant in a number of lawsuits which are expected to be paid, when applicable, through its self-insurance program. In addition to those suits in which claims for liability are adequately covered by insurance, the County is a defendant in various suits involving tort claims, violations of civil rights, breach of contract, inverse condemnation, and other suits and actions arising in the normal course of business. In the opinion of the County Attorney, the possible liability of the County in the resolution of these cases will not materially affect the County's ability to perform its obligations to the holders of the Series 2016 Bonds.

On January 28, 2013 in a case in which the County is not a party captioned *Maryland State Comptroller of the Treasury v. Brian Wynne, et al.*, 431 Md. 147 (2013), the Maryland Court of Appeals ruled that the failure of the Maryland income tax law to allow a credit against the county tax of a Maryland resident taxpayer with respect to activities in another state and that is taxed in that state, violates the dormant Commerce Clause of the United States Constitution. In a decision rendered on May 18, 2015, the Supreme Court of the United States upheld the decision of the Maryland Court of Appeals. This decision may cause each county in the State to realize a reduction in income tax revenue distributions from the State. Based on preliminary protective claim data from the Comptroller for the State of Maryland, the County estimates that the total amount of income tax refunds for tax years 2007 through 2014, including interest, attributable to the Wynne case could be \$135.7 million for Montgomery County. The County will participate in the program offered by the State Treasurer to have the State pay refunds and the County repay the State in quarterly installments.

Under Maryland law, taxpayers are generally eligible for interest on certain tax refunds calculated at an annual rate of interest equal to the greater of (i) three percentage points above the average prime rate of interest or (ii) 13%. In 2014, the Maryland General Assembly adopted legislation that set the annual interest rate for an income tax refund that is a result of the final decision under the *Wynne* case to a percent equal to the average prime rate of interest. This legislation substantially lowers the interest rate on tax refunds due as a result of the *Wynne* decision. Further, the legislation was intended to be effective retroactively. On November 13, 2015, lawyers for Michael J. Holzheid filed a class action complaint, *Michael J. Holzheid v. Comptroller of the Treasury of Maryland, et al.*, in the Circuit Court for Baltimore City challenging the state legislation. Other taxpayers may also file claims or appeals challenging the state legislation. If such claims or appeals are successful, the estimated amount of interest on refunds owed by the County would increase.

In *Chod v. Board of Appeals for Montgomery County*, the Circuit Court for Montgomery County, Maryland held that the Water Quality Protection Charge (the "Charge" or "WQPC") as set forth in Section 19-35 of the County Code was inconsistent with Section 4-202.1 of the Environment Article of the Maryland Code, the applicable enabling statute at the time. In *Chod*, the owner of a commercial development challenged the validity of the Charge that the County billed to the owner for the property that contained the development. The court, in invalidating the WQPC, opined that the Charge imposed on a property owner in the County must reasonably relate to the stormwater management services provided by the County to the property. The County assessed the WQPC against the subject commercial development based on the total impervious surface area of the property and without regard to the stormwater management services that the County provided to the commercial development. Since the County did not consider that the property owner maintained the two retention ponds treating the stormwater runoff from the commercial development, the court found the WQPC to be invalid.

The County settled the *Chod* litigation and enacted curative legislation to avoid future challenges regarding the assessment of the WQPC. Expedited Bill No. 45-15 amended Chapter 19 of the County Code by designating the WQPC as an excise tax imposed under the County's general taxing authority and

## FINANCIAL ADVISOR

Public Financial Management, Inc., Philadelphia, Pennsylvania, is serving as financial advisor to the County with respect to the issuance and sale of the Series 2016 Bonds.

## CERTIFICATE OF COUNTY OFFICIALS

The Chief Administrative Officer and the Director of Finance of the County will furnish a certificate to the successful bidder for the Bonds to the effect that, to the best of their knowledge and belief, this Official Statement, as of the date of sale and the date of delivery of the Series 2016 Bonds, is true and correct in all material respects and does not contain an untrue statement of a material fact or omit to state a material fact, required to be stated or necessary to be stated, to make such statements, in the light of the circumstances under which they were made, not misleading.

## CONTINUING DISCLOSURE UNDERTAKING

In order to enable participating underwriters, as defined in Rule 15c2-12 of the Securities Exchange Act of 1934 ("Rule 15c2-12") to comply with the requirements of paragraph (b)(5) of Rule 15c2-12, the County will execute and deliver a continuing disclosure agreement (the "Continuing Disclosure Agreement") on or before the date of issuance and delivery of the Bonds, the form of which is attached to this Official Statement as Appendix B. Potential purchasers of the Bonds should note that the definition of Reportable Events in Appendix B is intended to completely restate the events specified in Rule 15c2-12. It is noted that certain Reportable Events are expected to have no applicability to the Bonds, such as the possibility of unscheduled draws on debt service reserves and matters affecting collateral for the Bonds.

With the exception of the following, the County has complied in all material respects with its continuing disclosure undertakings pursuant to Rule 15c2-12 during the last five years. The County has established procedures to ensure that the County will fulfill the requirements of its continuing disclosure obligations for its bonds in the future.

- When filing information with the continuing disclosure service established by the Municipal Securities Rulemaking Board known as the Electronic Market Access System ("EMMA"), the County inadvertently failed to index properly certain filings made with respect to the Solid Waste Disposal Waste Disposal System Refunding Revenue Bonds (the "2003 Solid Waste Bonds") issued on behalf of the County by the Northeast Maryland Waste Disposal Authority (the "Authority") in Fiscal Years 2010 and 2012. To the extent a filing was made without all of the associated CUSIP numbers, the filing was otherwise available in connection with filings made by the County or the Authority. The 2003 Solid Waste Bonds are no longer outstanding.
- In connection with its continuing disclosure obligations with respect to certain bonds issued by the County on behalf of the Department of Liquor Control and various development and parking lot districts, the County failed to timely file or failed to file portions of its operating data during the last five years. The County has subsequently filed the necessary operating data with respect to such bonds on EMMA.
- The County failed to file notice of a rating change in connection the upgrade of the County's Revenue Bonds (Department of Liquor Control) issued by Standard & Poor's Rating Group in July 2013.

## AUTHORIZATION OF OFFICIAL STATEMENT

The execution of this Official Statement and its delivery have been duly authorized by the County.

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Isiah Leggett  
County Executive

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Joseph F. Beach  
Director, Department of Finance



## SUMMARY OF CERTAIN PROVISIONS OF THE TRUST AGREEMENT

The following is a summary of certain provisions of the Trust Agreement. This is not a complete recital of the terms of the Trust Agreement and reference should be made to it for its complete terms.

### Definitions

The following are definitions of certain terms used in the Trust Agreement and not otherwise defined in this Official Statement.

**"Additional Bonds"** means any bond, note or other evidence of obligation issued by the County pursuant to the Trust Agreement, including (without limitation) any cap, swap or other hedging arrangement.

**"Additional Facilities"** means any "stormwater management facilities" as defined in the Authorizing Legislation and any other facility for which Additional Bonds may be issued pursuant to the Authorizing Legislation that is financed or refinanced with proceeds of any Additional Bonds.

**"Annual Budget"** means the County's Annual Capital Budget for a fiscal year adopted pursuant to the Trust Agreement.

**"Balloon Debt"** means Indebtedness 25% or more of the principal amount of which matures in the same 12-month period, which portion of such principal amount is not required to be amortized by redemption prior to such period.

**"Bond"** or **"Bonds"** means the Series 2012 Bonds and any Additional Bonds, including the Series 2016 Bonds, collectively.

**"Bond Counsel"** means an attorney or firm of attorneys having a national reputation in the field of municipal law whose legal opinions are generally accepted by purchasers of municipal bonds designated by the County as its bond counsel from time to time. The firm of McKennon Shelton & Henn LLP is recognized as constituting Bond Counsel, subject to further action by the County.

**"Bond Year"** means the period from and including July 1 of each calendar year through and including June 30 of the immediately succeeding calendar year.

**"Business Day"** means a day other than a (a) Saturday, Sunday or legal holiday in the State, (b) day on which banking institutions in the State or in the city in which the Designated Office of the Trustee or the Credit Facility Provider is located are authorized or obligated to remain closed or (c) day on which the New York Stock Exchange is closed.

**"Certificate," "Notice," "Opinion," "Order," "Report," "Request," "Requisition"** and **"Statement"** mean, respectively, a written certificate, notice, opinion, order, report, request, requisition or statement, in form and substance satisfactory to the County, signed (a) when used with respect to the County, by an County Representative, and (b) when used with respect to any other person, by an authorized officer thereof. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the instruments so combined shall be read and construed as a single instrument.

(ii) for all other purposes of the Trust Agreement, such Indebtedness shall be deemed to bear interest at an annual rate equal to (A) in the case of any period during which such Indebtedness shall have been outstanding, the weighted average interest rate per annum borne by such Indebtedness during such period and (B) in any other case, the higher of (1) the weighted average interest rate per annum borne by such Indebtedness during the 12-month period ending on the date of calculation (or, in the case of any Indebtedness to be issued during the immediately preceding 12-month period, the weighted average interest rate per annum borne by other outstanding indebtedness having comparable terms and of comparable creditworthiness during the immediately preceding 12-month period, as evidenced by a certificate of an investment banking firm or a financial advisor knowledgeable in financial matters relating to the Facilities satisfactory to the County, who may be, without limitation, the financial advisor to the County) and (2) the interest rate per annum borne by such Indebtedness on the date of calculation, *provided* that if any Qualified Hedging Transaction identified in the records of the County with respect to any such Indebtedness shall be in effect for the period for which such calculation is to be made, at the option of the County, such Indebtedness shall be deemed to bear interest at the rate payable by the County under such Qualified Hedging Transaction during such period;

(b) with respect to any Balloon Debt, the principal amount of such Indebtedness payable in each Bond Year may be deemed to be the amount that would payable during such Bond Year if such Indebtedness were required to be amortized in full from the date of its issuance in substantially equal annual installments of principal (such principal to be rounded to the nearest \$5,000) and interest over a term equal to the shorter of (i) 30 years and (ii) 120% of the weighted average economic life of the facilities financed or refinanced thereby; and

(c) with respect to any Credit Facility Agreement, so long as no demand for payment under the Credit Facility issued under such Credit Facility Agreement shall have been made, the debt service requirements of such Credit Facility Agreement shall be excluded from such calculation.

**"Debt Service Reserve Fund Credit Facility"** means any Credit Facility held to the credit of a Debt Service Reserve Fund.

**"Debt Service Reserve Fund Credit Facility Agreement"** means the agreement, if any, pursuant to which any Debt Service Reserve Fund Credit Facility is issued.

**"Debt Service Reserve Fund Requirement"** means (a) when used with respect to or in connection with the Bonds, any other Series of Bonds secured by the Debt Service Reserve Fund maintained for the Bonds or such Debt Service Reserve Fund, as of any particular date of computation, an amount equal to the least of (i) 10% of the proceeds of the Bonds secured thereby, (ii) Maximum Annual Debt Service on all outstanding Bonds secured thereby, and (iii) 125% of the average annual debt service requirements of all Bonds secured thereby; and (b) when used with respect to any other Series of Bonds or the Debt Service Reserve Fund, if any, maintained for such Bonds, such amount as shall be established in the Supplemental Trust Agreement authorizing the issuance of such Bonds.

**"Event of Default"** has the meaning set forth in the Trust Agreement and summarized below in "Events of Defaults and Remedies--Events of Default."

**"Facilities"** means the Projects and any Additional Facilities.

**"Favorable Opinion of Bond Counsel"** means, when used with respect to or in connection with any action, a written opinion of Bond Counsel to the effect that such action will not adversely affect the excludability from gross income of interest paid on any Tax-Exempt Bond for federal income tax purposes.

**"Operating Expenses"** means all expenses incurred by the County in operating or maintaining its stormwater management facilities or causing such facilities to be operated and maintained in good repair, working order, and in compliance with applicable State and federal laws.

**"Outstanding"** or **"outstanding"** means, (a) when used with reference to Bonds as of any particular date, all Bonds authenticated and delivered under the Trust Agreement except (i) any Bond cancelled by the Registrar and Paying Agent or the Trustee (or delivered to the Registrar and Paying Agent or the Trustee for cancellation) at or before such date, (ii) any Bond for the payment of the principal or Redemption Price of and interest on which provision shall have been made as provided in the Trust Agreement and (iii) any Bond in lieu of or in substitution for which a new Bond shall have been authenticated and delivered pursuant to Article II, Article III or Section 8.04 of the Trust Agreement; and (b) when used with reference to any other Indebtedness, all Indebtedness theretofore issued or incurred other than any such Indebtedness that is deemed to have been paid and discharged under Generally Accepted Accounting Principles and that is not secured by the Pledged Revenues.

**"Participant"** when used with respect to any Securities Depository, means any participant of such Securities Depository.

**"Permitted Investment"** means each of the following investments to the extent that the amounts to be invested therein are then permitted to be invested in such investments under Applicable Law:

(a) Government Obligations;

(b) Agency Obligations;

(c) interest bearing time deposits, certificates of deposit or similar arrangements ("Deposits") with any commercial bank, trust company or savings and loan association (including, without limitation, the Trustee), *provided* that, to the extent such Deposits are not fully insured by the Federal Deposit Insurance Corporation, the outstanding unsecured long-term indebtedness of such commercial bank, trust company or savings and loan association (or its holding company) is rated by a Rating Agency in one of its two highest Rating Categories, and such Deposits are continuously secured by lodging with a bank or trust company, as collateral security, obligations described in clause (a), (b), (e) or (f) below, having a market value, calculated no less frequently than weekly, not less than 102% of the amount of such Deposit;

(d) repurchase agreements for obligations described in clause (a) or (b) above, *provided* that (i) such obligations shall be (A) delivered to the County or the Trustee (as the case may be) or supported by a safekeeping receipt issued by a depository satisfactory to the County or the Trustee (as the case may be) if issued in certificated form, or (B) supported by a receipt or other confirmatory documentation satisfactory to the County or the Trustee (as the case may be) if issued in book-entry form, (ii) the County or the Trustee (as the case may be) shall have a perfected security interest in such obligations, (iii) such obligations shall be free and clear of any other liens or encumbrances, and (iv) such repurchase agreements shall provide that the value of the underlying obligations shall be continuously maintained at a current market value, calculated no less frequently than weekly, of not less than 102% of the purchase price;

(e) obligations issued by or on behalf of any state of the United States of America or any political subdivision thereof for the payment of the principal or redemption price of and interest on which there shall have been irrevocably deposited Government Obligations maturing as to principal and interest at times and in amounts sufficient to provide such payment;

**"Revenues"** means WQPC revenues (excluding WQPC revenues collected with respect to the City of Gaithersburg in accordance with the Memorandum of Understanding dated July 15, 2003), together with other revenues of the County, including the Carryout Bag Tax, which are deposited into the Water Quality Protection Fund, together with interest earned thereon.

**"Registrar and Paying Agent"** means the Trustee, except as otherwise provided in any Supplemental Trust Agreement.

**"Serial Bonds"** means the Bonds of a series that shall be stated to mature in annual installments.

**"Series"** means any series of Bonds authorized by the Trust Agreement.

**"Series 2012 Bonds"** means the Montgomery County, Maryland Water Quality Protection Charge Revenue Bonds, Series 2012A.

**"Series 2016 Bonds"** means the Montgomery County, Maryland Water Quality Protection Charge Revenue Bonds, Series 2016.

**"Sinking Fund Installment"** means the amount of money provided in the Trust Agreement, and in each Supplemental Trust Agreement authorizing any Series of Additional Bonds, to redeem Bonds of such Series at the times and in the amounts provided in the Trust Agreement or such Supplemental Trust Agreement (as the case may be).

**"State"** means the State of Maryland.

**"Supplemental Trust Agreement"** means any instrument between the County and the Trustee amending, modifying or supplementing the Trust Agreement, any Supplemental Trust Agreement or any Bond, delivered and becoming effective in accordance with the terms of the Trust Agreement.

**"Tax-Exempt Bond"** means any Series 2012 Bond and any other Bond with respect to which there shall have been delivered to the County an opinion of Bond Counsel to the effect that the interest on such Bond is excludable from gross income for federal income tax purposes.

**"Termination Date"** means, when used with respect to any Bonds (a) the day that is five days prior to the stated expiration date of the Credit Facility securing such Bonds, and (b) the effective date of each Alternate Credit Facility securing such Bonds.

**"UCC"** means the Maryland Uniform Commercial Code - Secured Transactions, Title 9, Commercial Law Article, Annotated Code of Maryland, as amended.

**"Variable Rate Indebtedness"** means, as of any particular date, any indebtedness the interest on which is not established at a fixed rate or rates for the remaining term thereof.

**"Water Quality Protection Fund"** means the fund established pursuant to Section 19-35(f) of the Montgomery County Code.

#### **Creation of Funds (Section 4.01)**

The following funds are created pursuant to the Trust Agreement: Pledged Revenues Fund; Construction Fund; Bond Fund; Debt Service Reserve Fund; Redemption Fund; Rate Stabilization Fund; and Rebate Fund. The Pledged Revenues Fund, the Bond Fund, the Construction Fund, the Debt Service Reserve Fund, the Rate Stabilization Fund and the Redemption Fund shall be held by the Trustee in the

amounts realized under the Credit Facility issued thereunder for the payment of interest due on any Bonds of such Series and interest due on amounts realized under such Credit Facility for the payment of the principal or Redemption Price of or interest on, or the purchase price of, Bonds of such Series on such date, or if on any date on which the principal amount of any Outstanding Bond of a Series becomes due the amount in the Bond Fund maintained for such Bonds shall be less than the amount of the principal and the Sinking Fund Installment (either or both, as the case may be) then due on such Bonds and the amounts, if any, due under the Credit Facility Agreement with respect to such Bonds as a result of any amounts realized under the Credit Facility issued thereunder for the payment of the principal or Redemption Price of Bonds of such Series on such date, the Trustee forthwith shall transfer moneys from the Debt Service Reserve Fund maintained for such Bonds to such Bond Fund, to the extent necessary to make good any deficiency.

For the purposes of the Trust Agreement, in the case of a Debt Service Reserve Fund:

(a) a "deficiency" shall mean that the value of the assets of such Debt Service Reserve Fund, determined in accordance with Section 4.09 of the Trust Agreement, is less than the Debt Service Reserve Fund Requirement; and

(b) a "surplus" shall mean that the value of the assets of such Debt Service Reserve Fund, determined in accordance with Section 4.09 of the Trust Agreement, is in excess of the Debt Service Reserve Fund Requirement.

The Trustee shall determine the value of the assets of each Debt Service Reserve Fund in the manner provided by Section 4.09 of the Trust Agreement as of the close of business (i) on July 1 in each year, (ii) on the date of any withdrawal from the Debt Service Reserve Fund and on the last Business Day of each month thereafter until such determination discloses that a deficiency no longer exists in such fund, (iii) on any date on which the Trustee obtains actual knowledge that any Debt Service Reserve Fund Credit Facility held to the credit of a Debt Service Reserve Fund is no longer entitled to be credited to such Debt Service Reserve Fund, (iv) on the date that is six months prior to the stated expiration date of any Debt Service Reserve Fund Credit Facility, and (v) on any other date directed by the County.

As promptly as practicable after making such determination, the Trustee shall notify the County of the result of such determination and of the amount of any deficiency or surplus determined to exist in a Debt Service Reserve Fund.

The Trustee shall transfer the amount of any surplus that exists in a Debt Service Reserve Fund from time to time to the Bond Fund, the Redemption Fund or the Rate Stabilization Fund upon the direction of the County.

#### **Rate Stabilization Fund (Section 4.08)**

The County covenants that on or before the first day of July in each year it will adopt the Annual Budget with respect to the operation and maintenance of the Facilities and the deposit of such budgeted amount through quarterly deposits to the credit of the Rate Stabilization Fund for the ensuing fiscal year.

Amounts on deposit in the Rate Stabilization Fund shall be used to (i) pay the costs of unexpected additions, improvements or betterments to, or design, expansion, construction, replacement, remodeling or equipping of "stormwater management facilities" as defined in the Authorizing Legislation, including (without limitation) any extraordinary maintenance of or repairs to such facilities and (ii) provide funds to replace budgeted WQPCs that are uncollected for the current fiscal year.

limitation): (a) refinancing, refunding or advance refunding any Outstanding Indebtedness ("Refunding Purposes"), (b) obtaining funds to pay the Cost of completing any Additional Facilities ("Completion Purposes"), (c) obtaining funds necessary to pay the costs of extraordinary maintenance of or repairs or improvements to any Facilities, including (without limitation) repairs, replacements or improvements required as a result of any casualty or taking or other extraordinary occurrence or to meet the requirements of Applicable Law ("Extraordinary Maintenance Purposes") or (d) obtaining funds to pay the Cost of any Additional Facilities. Additional Bonds may be issued to pay the costs incurred in connection with the issuance and sale of any Bonds, to establish reserves and to pay interest on any Bonds prior to and during acquisition and construction. The issuance of Additional Bonds shall be authorized by a Supplemental Trust Agreement. Each Additional Bond shall be on a parity with, and shall be entitled to the same benefit and security of the Trust Agreement as the Series 2012 Bonds and any other Additional Bonds that may be issued from time to time, to the extent provided in the Trust Agreement.

The Supplemental Trust Agreement authorizing the issuance of any Series of Additional Bonds shall specify the maturities and redemption provisions of such Additional Bonds, the form and denominations thereof and other details of such Additional Bonds. Without limiting the generality of the foregoing, Additional Bonds may constitute Variable Rate Indebtedness or Balloon Debt, as shall be determined by the County, in its discretion. The County may provide for the creation of a separate Bond Fund, Debt Service Reserve Fund or Redemption Fund and other funds and accounts for any Series of Additional Bonds, as shall be deemed advisable by the County. The Supplemental Trust Agreement authorizing the issuance of any Additional Bonds shall provide for the deposit of Pledged Revenues in the Bond Fund and the Debt Service Reserve Fund, if any, maintained for such Bonds, which deposits shall be made not more frequently than monthly except to the extent required to pay the principal of and interest on such Bonds when due.

If any Supplemental Trust Agreement provides for the establishment of separate funds and accounts for any Series of Bonds, then such Supplemental Trust Agreement shall require that (i) the Pledged Revenues required to be deposited in the Pledged Revenues Fund on any date shall be transferred and deposited *pro rata* among all of the Bond Funds on the basis of the principal of, the Sinking Fund Installments for and the interest on the Series of Bonds secured thereby required to be transferred to the Bond Fund for such Bonds on such date, and (ii) the Pledged Revenues required to be transferred to the Debt Service Reserve Fund on any date shall be allocated *pro rata* among all Debt Service Reserve Funds on the basis of the respective aggregate principal amounts of the Bonds Outstanding secured by such Debt Service Reserve Funds. Amounts on deposit in the funds and accounts created for particular Series of Bonds available for the payment of any Bonds shall be applied solely to the payment of the principal or Redemption Price of and interest on, or the purchase price of, the Bonds of such Series or to the reimbursement of the issuer of any Credit Facility securing such Bonds and shall not be available to satisfy the claims of Holders of Bonds of any other Series or the issuer of any Credit Facility securing any other Series of Bonds.

The Supplemental Trust Agreement authorizing the issuance of any Series of Additional Bonds may provide that any proceeds of such Additional Bonds and investment earnings thereon remaining after the completion of any Additional Facilities financed with the proceeds of such Additional Bonds shall be applied to the payment or redemption of such Series of Additional Bonds.

Any Supplemental Trust Agreement authorizing the issuance of Additional Bonds may provide that (i) such Series of Bonds shall be secured by the Debt Service Reserve Fund maintained for the Series 2012 Bonds or other Series of Bonds issued pursuant to the Trust Agreement, (ii) such Series of Additional Bonds shall not be secured by a Debt Service Reserve Fund, or (iii) such Additional Bonds shall be secured by a separate Debt Service Reserve Fund.

(v) unless such Additional Bonds are issued or incurred for Refunding Purposes, Completion Purposes or Extraordinary Maintenance Purposes and the items described below are furnished to the Trustee, a Certificate of the County to the effect that (A) the amount of Revenues for the most recent Bond Year less the amount of the Operating Expenses for such Bond Year was not less than the sum of (1) 115% of the Debt Service Requirements of Outstanding Bonds for such Bond Year, (2) 100% of the Debt Service Requirements of all other outstanding Long-Term Indebtedness for such Bond Year, and (3) the amount set forth in the Annual Budget to be deposited to the Rate Stabilization Fund for such Bond Year, and (B) during each of the five Bond Years immediately succeeding the later of the date of delivery of such Additional Bonds and the date to which interest on such Additional Bonds has been funded, the estimated amount of Revenues in such Bond Years, less the amount of the estimated Operating Expenses for such Bond Years, are projected to be not less than the sum of (1) 115% of the Debt Service Requirements of Outstanding Bonds for such Bond Year, taking into account the Additional Bonds then to be issued, (2) 100% of the Debt Service Requirements of all other outstanding Long-Term Indebtedness for such Bond Year, and (3) the estimated amount set forth in the Annual Budget to be deposited to the Rate Stabilization Fund for such Bond Year; and

(vi) the amount, if any, required to make the amount on deposit in the Debt Service Reserve Funds equal the respective Debt Service Reserve Fund Requirements upon the issuance of such Additional Bonds.

If Additional Bonds are issued or incurred for Completion Purposes or Extraordinary Maintenance Purposes, the items required by paragraph (v) need not be provided to the Trustee if, in lieu thereof, there shall be furnished to the Trustee (I) a Report of an Independent Consultant to the effect that the amount of the Revenues for each of the five full Bond Years following the date on which the proceeds of such Additional Bonds are expected to have been fully applied is projected to be not less than the sum of (i) the Debt Service Requirements of all Outstanding Long-Term Indebtedness as of the last day of each such Bond Year and (ii) the amount of estimated Operating Expenses for each such Bond Year, and (II) a Report of an Engineer to the effect that the proceeds of such Additional Bonds do not exceed the amount necessary to accomplish the intended Completion Purpose or Extraordinary Maintenance Purpose, respectively.

If Additional Bonds are issued or incurred for Refunding Purposes, the items required by paragraph (v) need not be provided to the Trustee if there shall be furnished to the Trustee a Certificate of the County to the effect that the Maximum Annual Debt Service on Outstanding Bonds, taking into account the issuance of such Additional Bonds and the Long-Term Indebtedness to be refinanced or refunded, will not be increased by more than ten percent during the life of any then Outstanding Bonds that are not refinanced or refunded with proceeds of such Additional Bonds.

Additional Bonds may be authenticated, delivered and paid for in installments of less than the total authorized principal amount of a Series of Bonds from time to time as the County may direct in its written requests.

#### **Events of Default (Section 7.01)**

Each of the following events is hereby declared to constitute an "Event of Default" under the Trust agreement:

(a) the principal of any Bond shall not have been paid when the same shall have become due and payable, either at maturity or by proceedings for redemption or otherwise;

result of any amounts realized under the Credit Facilities issued thereunder for the payment of interest due on such Bonds and interest on amounts realized under such Credit Facilities for the payment of the principal or Redemption Price of and interest on, and the purchase price of, such Bonds, in the order in which such amounts became due and payable and, if the amount available shall not be sufficient to pay in full all such amounts due on any particular date, then to the payment of such amounts, ratably, according to the amounts due on such date, to the persons entitled thereto, without any discrimination or preference, except as to any difference in the respective rates of interest specified in such Bonds and Credit Facility Agreements;

SECOND: to the payment to the persons entitled thereto of the unpaid principal of any Outstanding Bonds that shall have become due and payable and all amounts, if any, due under any Credit Facility Agreement as a result of any amounts realized under any Credit Facility issued thereunder for the payment of the principal or Redemption Price of such Bonds, in the order of their due dates, with interest thereon from the respective dates upon which such amounts shall have become due and payable and, if the amount available shall not be sufficient to pay in full the all such amounts due on any particular date, together with such interest, then first to the payment of such interest, ratably, according to the amount of interest due on such date, and then to the payment of the balance due hereunder, ratably, according to the amount due on such date, to the persons entitled thereto, without any discrimination or preference, except as to any difference in the respective rates of interest specified in the Bonds and any Credit Facility Agreement; and

THIRD: to the payment of any other amounts due under any Credit Facility Agreement; and

(b) if the principal of all Outstanding Bonds shall have become due by their terms, all such moneys shall be applied to the payment of the principal and interest then due and unpaid upon such Bonds and all amounts, if any, due under any Credit Facility Agreement as a result of any amounts realized under any Credit Facility issued thereunder for the payment of the principal or Redemption Price of and interest on, or the purchase price of, such Bonds and interest on such amounts, ratably, according to the amounts due, to the persons entitled thereto, without any without preference or priority of principal over interest or of interest over principal, or of any Bond or Credit Facility Agreement over any other Bond or Credit Facility Agreement, except as to any difference in the respective rates of interest specified in the Bonds and any Credit Facility Agreement.

Notwithstanding any other provision of the Trust Agreement (i) if any Supplemental Trust Agreement provides for the establishment of separate funds and accounts for one or more Series of Bonds, amounts on deposit in the funds and accounts established for such Bonds shall be applied solely to the payment of amounts due on such Bonds and amounts payable under any Credit Facility Agreement with respect to such Bonds as a result of amounts realized under any Credit Facility issued thereunder for the payment of the principal or Redemption Price of and interest on, and the purchase price of, such Bonds, and accrued interest on such amounts; (ii) the Trustee shall allocate any other amounts held by the Trustee among the Outstanding Bonds of each Series after giving effect to the application of amounts on deposit in the funds and accounts maintained for such Bonds to the payment thereof, *provided* that the amount allocated to any Series of Bonds shall not exceed the amount necessary to pay the principal of and interest on such Bonds after the application to such payment of any amount on deposit in any Debt Service Reserve Fund securing such Bonds; and (iii) prior to the application of any moneys that constitute proceeds of any Series of Tax-Exempt Bonds or the investment earnings on such proceeds to the payment of any Bond of any other Series, the Trustee shall obtain a Favorable Opinion of Bond Counsel.

Whenever moneys are to be applied by the Trustee pursuant to the provisions of this section, such moneys shall be applied by the Trustee at such times, and from time to time, as the Trustee may determine, having due regard to the amount of such moneys available for application and the likelihood of



All rights of action under the Trust Agreement or under any Bond may be enforced by the Trustee without the possession of any Bond or the production thereof at the trial or other proceeding relative thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in its name for the benefit of all Holders, all subject to the provisions of the Trust Agreement.

No remedy conferred upon or reserved to the Trustee or to the Holders under the Trust Agreement is intended to be exclusive of any other remedy and each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Trust Agreement or now or hereafter existing at law or in equity or by statute.

No delay or omission of the Trustee or of any Holder to exercise any right or power accruing upon any default shall impair any such right or power, nor shall any such delay or omission be construed to be a waiver of any such default or an acquiescence therein. Every power and remedy given by the Trust Agreement to the Trustee and the Holders, respectively, may be exercised from time to time and as often as may be deemed expedient.

The Trustee may, and upon written request of not less than 25% of the Holders shall, waive any default with respect to Bonds which in its opinion shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions of the Trust Agreement or before the completion of the enforcement of any other remedy under the Trust Agreement; but no such waiver shall extend to or affect any other existing or any subsequent default or impair any rights or remedies consequent thereon.

#### **Defeasance (Section 9.01)**

(a) If the County shall pay or cause to be paid the principal or Redemption Price of and interest on all Bonds at the times and in the manner stipulated therein, in the Trust Agreement and in any Supplemental Trust Agreement authorizing the issuance of any Additional Bonds, then the pledge of the Trust Estate to the Trustee for the benefit of the Holders and all other rights granted hereby to the Trustee or the Holders shall be discharged and satisfied. In such event, upon the request of the County, the Trustee shall execute and deliver to the County all such instruments as may be desirable to evidence such discharge and satisfaction, and the Trustee shall pay or deliver to the County, or to such officer, board or body as may then be entitled by law to receive the same, all property held by it pursuant to the Trust Agreement (other than any moneys and securities required for the payment or redemption of Bonds not theretofore surrendered for such payment or redemption).

(b) A Series 2012 Bond and any Additional Bond, except as otherwise provided in any Supplemental Trust Agreement authorizing the issuance thereof, shall be deemed to have been paid within the meaning of, and with the effect expressed in this section if (i) money for the payment or redemption of such Bond shall be held by the Trustee (through deposit by the County of moneys for such payment or redemption or otherwise, regardless of the source of such moneys), whether at or prior to the maturity or the redemption date of such Bond, or (ii) if the maturity or redemption date of such Bond shall not have arrived, provision shall have been made by the County for the payment of the principal or Redemption Price of and interest on, and the purchase price of, such Bond on the due dates for such payments by deposit with the Trustee (or other method satisfactory to the Trustee) of Government Obligations, the principal of and the interest on which when due will provide for such payment, *provided* that, if such Bond is to be redeemed prior to the maturity thereof, the County shall have taken all action necessary to redeem such Bond and notice of such redemption shall have been duly and irrevocably given or provisions satisfactory to the Trustee shall have been made for the giving of such notice.

The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by the Trust Agreement at the request or direction of any of the Bondholders unless such holders have offered to the Trustee security or indemnity satisfactory to the Trustee as to its terms, coverage, duration, amount and otherwise with respect to the costs, expenses and liabilities which may be incurred by it in compliance with such request or direction.

The Trustee shall not be required to take notice or deemed to have notice of any default or Event of Default, except any Event of Default under Section 7.01(a) or (b) of the Trust Agreement, unless a responsible officer of the Trustee has actual knowledge thereof or has received notice in writing of such default or Event of Default from the County or the holders of at least 25% of the Bonds, and in the absence of any such notice, the Trustee may conclusively assume that no such default or Event of Default exists.

The Trustee's immunities and protections from liability and its right to indemnification in connection with the performance of its duties under the Trust Agreement shall extend to the Trustee's officers, directors, agents, attorneys and employees. Such immunities and protections and right to indemnification, together with the Trustee's right to compensation, shall survive the Trustee's resignation or removal, the defeasance or discharge of the Trust Agreement and final payment of the Bonds.

The permissive right of the Trustee to take the actions permitted by the Trust Agreement shall not be construed as an obligation or duty to do so.

In case an Event of Default shall have occurred and be continuing, the Trustee shall exercise such of the rights and powers vested in it hereby and use the same degree of care and skill in their exercise as a prudent person would exercise under the circumstances in the conduct of his or her own affairs.

#### *Resignation and Removal of the Trustee (Sections 6.07 and 6.08)*

The Trustee may at any time resign and be discharged of its duties and obligations under the Trust Agreement by giving not fewer than 30 days' written notice, specifying the date when such resignation shall take effect, to the County and each Holder. Such resignation shall take effect upon the appointment of a successor Trustee and the acceptance of such appointment by such successor.

The Trustee may be removed by the County so long as no Event of Default shall have occurred and be continuing or, if any Event of Default shall have occurred and be continuing, by a majority of the Holders by an instrument or concurrent instruments in writing signed and acknowledged by such Holders or by their attorneys-in-fact, duly authorized and delivered to the County. Facsimile copies of each such instrument shall be delivered by the County to the Trustee and any successor thereof. The Trustee may also be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provision of the Trust Agreement with respect to the duties and obligations of the Trustee by any court of competent jurisdiction upon the application of the County or of not less than ten percent of the Holders.

#### *Successor Trustee (Section 6.09)*

If the Trustee shall resign, be removed, be dissolved or become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee or of its property shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs, the position of the Trustee shall thereupon become vacant. If the position of Trustee shall become vacant for any of the foregoing reasons or for any other reason, a successor Trustee shall be appointed by the County. Copies of any instrument of the County providing for any such appointment

(d) The Registrar and Paying Agent shall be entitled to compensation for services rendered pursuant to the Trust Agreement (subject to any contract or agreement entered into between the County and the Registrar and Paying Agent with respect thereto) and to indemnification by the County or by others on the same basis and to the same extent as the Trustee for the performance of its services. The Registrar and Paying Agent shall enjoy the same protections and immunities as the Trustee.

(e) The duties and obligations of the Registrar and Paying Agent shall be determined by the express provisions of the Trust Agreement, and the Registrar and Paying Agent shall not be liable except for the performance of such duties and obligations as are specifically set forth in the Trust Agreement. The Registrar and Paying Agent shall not be liable in connection with the performance of its duties except for its own negligence or willful default.

Within 30 days of the resignation or removal of the Registrar and Paying Agent for any Bonds or the appointment of a successor Registrar and Paying Agent the Trustee shall mail notice thereof to the holders of such Bonds and to each Rating Agency, which is then rating any of the Bonds.

#### **Modification or Amendment of Trust Agreement Without Consent (Section 8.01)**

Without notice to, or the consent of, the Holders, the County and the Trustee may enter into a Supplemental Trust Agreement supplementing, modifying or amending the Trust Agreement or any Supplemental Trust Agreement at any time or from time to time for one or more of the following purposes:

(a) to grant to or confer upon the Trustee for the benefit of the Holders any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Trustee for the benefit of the Holders;

(b) to add to the covenants and agreements of the County contained in the Trust Agreement, other covenants and agreements thereafter to be observed relative to the acquisition, construction, equipping, operation, maintenance, development or administration of the Facilities, or the application, custody, use or disposition of the proceeds of Bonds;

(c) to surrender to the Trustee any right, power or privilege reserved to or conferred upon the County by the Trust Agreement;

(d) to confirm, as further assurance, any pledge under, and the subjection to any lien on, or claim or pledge of (whether created or to be created by the Trust Agreement), the Trust Estate;

(e) to cure any ambiguity or to cure or correct any defect or inconsistent provisions contained in the Trust Agreement or to make such provisions in regard to matters or questions arising under the Trust Agreement as may be necessary or desirable and not contrary to or inconsistent with the Trust Agreement;

(f) to provide for the issuance of Additional Bonds, including (without limitation) any modifications or amendments required to grant to or otherwise secure for the Holders of such Additional Bonds a parity interest in the security granted to the holders of the Series 2012 Bonds and any other then-Outstanding Bonds in accordance with Section 2.04 of the Trust Agreement;

(g) to permit the qualification of the Trust Agreement or any Supplemental Trust Agreement under any federal statute now or hereafter in effect or under any state blue sky law and, in connection

**APPENDIX B**

**FORM OF CONTINUING DISCLOSURE AGREEMENT**

(v) Property Tax Rates and Tax Levies, By Purpose; and

(vi) Schedule of General Fund Revenues, Expenditures and Transfers In (Out).

(b) The County shall provide to the MSRB annual audited financial statements for the County, such information to be made available within 275 days after the end of the County's fiscal year, commencing with the fiscal year ended June 30, 2016, unless the audited financial statements are not available on or before such date, in which event said financial statements will be provided promptly when and if available. In the event that audited financial statements are not available within 275 days after the end of the County's fiscal year (commencing with the fiscal year ended June 30, 2016), the County will provide unaudited financial statements within such time period.

(c) The presentation of the financial information referred to in paragraph (a) and in paragraph (b) of this Section shall be made in accordance with the same accounting principles as utilized in connection with the presentation of applicable comparable financial information included in the final official statement for the Series 2016 Bonds.

(d) If the County is unable to provide the annual financial information and operating data within the applicable time periods specified in (a) and (b) above, the County shall send in a timely manner a notice of such failure to the MSRB.

(e) Except as provided in the section captioned "Continuing Disclosure Undertaking" in the Official Statement for the Series 2016 Bonds dated \_\_\_\_\_, 2016, the County hereby represents and warrants that it has not failed to comply with any prior disclosure undertaking made pursuant to the Rule.

#### SECTION 4. *Reporting of Significant Events.*

(a) This Section 4 shall govern the giving of notices of the occurrence of any of the following events with respect to the Series 2016 Bonds:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults, if material;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions or events affecting the tax-exempt status of the Bonds;
- (7) modifications to rights of Bondholders, if material;
- (8) bond calls;
- (9) defeasances;
- (10) release, substitution or sale of property securing repayment of the Bonds, if material;

(b) The reasons for the County agreeing to provide any further or additional assurances or for any amendment and the impact of the change in the type of financial information or operating data being provided will be explained in narrative form in information provided with the annual financial information containing the additional or amended financial information or operating data.

SECTION 8. *Additional Information.* Nothing in this Disclosure Agreement shall be deemed to prevent the County from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including disclaimers or any other information in any disclosure made pursuant to Section 3(a) or 3(b) hereof or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If the County chooses to include any information in any disclosure made pursuant to Section 3(a) or 3(b) hereof or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Agreement, the County shall have no obligation under this Disclosure Agreement to update such information or include it in any future disclosure made pursuant to Section 3(a) or 3(b) hereof or notice of occurrence of a Listed Event.

SECTION 9. *Limitation on Remedies and Forum.*

(a) The County shall be given written notice at the address set forth below of any claimed failure by the County to perform its obligations under this Disclosure Agreement, and the County shall be given 15 days to remedy any such claimed failure. Any suit or other proceeding seeking further redress with regard to any such claimed failure by the County shall be limited to specific performance as the adequate and exclusive remedy available in connection with such action. Written notice to the County shall be given to Director of Finance, 15th Floor, Executive Office Building, 101 Monroe Street, Rockville, Maryland 20850, or at such alternate address as shall be specified by the County in disclosures made pursuant to Section 3(a) or 3(b) hereof or a notice of occurrence of a Listed Event.

(b) Any suit or proceeding seeking redress with regard to any claimed failure by the County to perform its obligations under this Disclosure Agreement must be filed in the Circuit Court for Montgomery County, Maryland.

SECTION 10. *Beneficiaries.* This Disclosure Agreement shall inure solely to the benefit of the current owners from time to time of the Series 2016 Bonds, including beneficial owners, and shall create no rights in any other person or entity.

SECTION 11. *Relationship to Bonds.* This Disclosure Agreement constitutes an undertaking by the County that is independent of the County's obligations with respect to the Series 2016 Bonds. Any breach or default by the County under this Disclosure Agreement shall not constitute or give rise to a breach or default under the Series 2016 Bonds.

SECTION 12. *Severability.* In case any section or provision of this Disclosure Agreement or any covenant, stipulation, obligation, agreement, or action, or any part thereof, made, assumed, entered into or taken under this Disclosure Agreement, or any application thereof, is for any reason held to be illegal or invalid or is at any time inoperable, such illegality, invalidity or inoperability shall not affect the remainder thereof or any other section or provision of this Disclosure Agreement, or any other covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Disclosure Agreement, which shall at the time be construed and enforced as if such illegal or invalid or inoperable portion were not contained therein.

**APPENDIX C**

**FORM OF BOND COUNSEL OPINION**

material facts within the knowledge of the County relevant to the tax-exempt status of interest on the Bonds.

Based upon the foregoing, it is our opinion that:

(a) The County is a validly created and existing body politic and corporate and political subdivision of the State of Maryland.

(b) The Trust Agreement has been duly authorized, executed and delivered by the County and, assuming the due authorization, execution and delivery thereof by the other parties thereto, the Trust Agreement constitutes a valid and binding obligation of the County.

(c) The County is duly authorized and entitled to issue the Bonds. The Bonds executed and authenticated as provided in the Order have been duly and validly issued and constitute valid and binding limited obligations of the County, payable solely from the Pledged Revenues (as defined in the Trust Agreement) and other amounts pledged to such payment under the Trust Agreement.

(c) The Trust Agreement and the Bonds are subject to bankruptcy, insolvency, moratorium, reorganization and other state and federal laws affecting the enforcement of creditors' rights and to general principles of equity.

(d) The Bonds do not constitute a debt of the State of Maryland or any political subdivision thereof, including the County, within the meaning of any constitutional, charter or statutory debt limit or restriction. Neither the faith and credit nor the taxing power of the State of Maryland or any political subdivision thereof, including the County, is pledged to the payment of the Bonds. The County is required to pay the Bonds and the premium, if any, and interest thereon and to perform its obligations under the Trust Agreement only to the extent that there are Pledged Revenues available for the payment thereof.

(e) The Bonds their transfer, the interest payable on them, and any income derived from them, including any profit realized in their sale or exchange, shall be exempt at all times from every kind and nature of taxation by the State of Maryland or by any of its political subdivisions, municipal corporations or public agencies of any kind.

(f) Assuming compliance with certain covenants referred to herein, interest on the Bonds will be excludable from gross income for federal income tax purposes under existing statutes, regulations and decisions. It is noted that under the provisions the Code, there are certain restrictions that must be met subsequent to the delivery of the Bonds, including restrictions that must be complied with throughout the term of the Bonds, in order that the interest thereon be excludable from gross income. These include (i) a requirement that certain investment earnings received from the investment of the proceeds of the Bonds be rebated (or that certain payments in lieu of rebate be made) to the United States of America under certain circumstances; (ii) other requirements applicable to the investment of the proceeds of the Bonds; and (iii) requirements applicable to the use of the proceeds of the Bonds and the use of the facilities financed or refinanced with such proceeds. Failure to comply with one or more of these requirements could result in the inclusion of the interest payable on the Bonds in gross income for federal income tax purposes, effective from the date of their issuance. The County has covenanted to regulate the investment of the proceeds of the Bonds and to take such other actions as may be required to maintain the excludability of interest on the Bonds from gross income for federal income tax purposes.

(g) Interest on the Bonds is not includable in the alternative minimum taxable income of individuals, corporations or other taxpayers as an enumerated item of tax preference or other



**APPENDIX D**

**NOTICE OF SALE**

**Contact Information****MONTGOMERY COUNTY, MARYLAND (ISSUER)**

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**Joseph F. Beach, *Director of Finance***

Department of Finance  
101 Monroe Street, 15<sup>th</sup> Floor  
Rockville, Maryland 20850  
Phone: (240) 777-8860 / Fax: (240) 777-8857  
Email: [joseph.beach@montgomerycountymd.gov](mailto:joseph.beach@montgomerycountymd.gov)

**Jacqueline D. Carter, *Debt Manager***

Department of Finance  
101 Monroe Street, 15<sup>th</sup> Floor  
Rockville, Maryland 20850  
Phone: (240) 777-8979 / Fax: (240) 777-8857  
Email: [jacqueline.carter@montgomerycountymd.gov](mailto:jacqueline.carter@montgomerycountymd.gov)

**Robert Hagedoorn, Chief, Division of Fiscal Management**

Department of Finance  
101 Monroe Street, 15<sup>th</sup> Floor  
Rockville, Maryland 20850  
Phone: (240) 777-8887 / Fax: (240) 777-8857  
Email: [robert.hagedoorn@montgomerycountymd.gov](mailto:robert.hagedoorn@montgomerycountymd.gov)

**PUBLIC FINANCIAL MANAGEMENT, INC. (FINANCIAL ADVISOR)**

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Two Logan Square  
18<sup>th</sup> & Arch Streets  
Suite 1600  
Philadelphia, Pennsylvania 19103

**Geoff Stewart, *Director***

Phone: (215) 557-1484  
E-Mail: [stewart@pfm.com](mailto:stewart@pfm.com)

**Paul Chung, *Financial Analyst***

Phone: (215) 557-1216  
E-Mail: [chungp@pfm.com](mailto:chungp@pfm.com)

**MCKENNON SHELTON & HENN LLP (BOND COUNSEL)**

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401 E. Pratt Street, Suite 2600  
Baltimore, MD 21202  
Fax: (410) 843-3501

**Paul Shelton, *Partner***

Phone: (410) 843-3512  
Email: [paul.shelton@mshllp.com](mailto:paul.shelton@mshllp.com)

**Carlos Santos**

Phone: (410) 843-3510  
Email: [carlos.santos@mshllp.com](mailto:carlos.santos@mshllp.com)

**I-DEAL/PARITY® (ELECTRONIC BIDDING PLATFORM)**

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**Client Services**

Phone: (212) 849-5024  
Email: [parity@i-deal.com](mailto:parity@i-deal.com)

### PRINCIPAL AMORTIZATION SCHEDULE

The Bonds will be issued in serial form as designated by the successful bidder for the Bonds in its proposal, as described below. The principal of the Bonds shall be payable in installments on the dates in the following years and in the following amounts:

#### \$41,470,000\* Water Quality Protection Charge Revenue Bonds, Series 2016

<b>Maturing</b>	<b>Principal</b>	<b>Maturing</b>	<b>Principal</b>
<b><u>April 1</u></b>	<b><u>Amount*</u></b>	<b><u>April 1</u></b>	<b><u>Amount*</u></b>
2017	\$1,245,000	2027	\$2,045,000
2018	1,315,000	2028	2,145,000
2019	1,385,000	2029	2,255,000
2020	1,450,000	2030	2,365,000
2021	1,525,000	2031	2,485,000
2022	1,600,000	2032	2,605,000
2023	1,680,000	2033	2,740,000
2024	1,765,000	2034	2,875,000
2025	1,855,000	2035	3,020,000
2026	1,945,000	2036	3,170,000

\*Preliminary, subject to change.

the principal amount of the bond to be redeemed, together with interest accrued to the date fixed for redemption, without premium.

#### *Selection of Bonds to Be Redeemed*

If less than all of the Bonds of any one maturity are called for redemption, the particular bonds, or portions of such bonds, to be redeemed from such maturity shall be selected by the Director of Finance of the County, acting as bond registrar and paying agent for the Bonds, or its successor as bond registrar and paying agent (the "Bond Registrar/Paying Agent") by lot or other random means in such manner as the Bond Registrar/Paying Agent in its sole discretion may determine, except that so long as DTC or its nominee is the sole registered owner of the Bonds, the particular bonds or portion to be redeemed shall be selected by DTC, in such manner as DTC shall determine. Each \$5,000 portion of a bond shall be treated as a separate bond in the selection of Bonds to be redeemed.

If the County elects to redeem all or a portion of the Bonds outstanding, it shall give a redemption notice to the registered owners of such Bonds to be redeemed, at least thirty (30) days prior to the date of redemption, by letter mailed first class, postage prepaid, to the registered owners of the Bonds to be redeemed at their last addresses appearing on the registration books maintained by the Bond Registrar/Paying Agent; provided, however, that so long as DTC or its nominee is the sole registered owner of such Bonds, any redemption notice will be given only to DTC. The failure to mail such notice with respect to a particular bond or any defect in such notice, or in the mailing thereof, shall not affect the sufficiency of proceedings for the redemption of any other bond. From and after the date fixed for redemption, if notice has been duly and properly given and if funds sufficient for the payment of the redemption price and accrued interest are available on such date, the Bonds designated for redemption shall cease to bear interest.

Notwithstanding the foregoing, so long as the Bonds are maintained under a book-entry system, selection of the Bonds to be redeemed shall be made in the manner described below under "Book-Entry Only System" and notice of redemption shall be mailed only to DTC.

#### *Adjustment of Amounts and Maturities*

Prior to the Sale Date, the County may cancel the sale of the Bonds or adjust the aggregate principal amount and the principal amount of any maturity of the Bonds. The preliminary aggregate principal amount of the Bonds and the preliminary principal amount of each installment payment on the Bonds as set forth in this Official Notice of Sale (the "Preliminary Aggregate Principal Amount" and the "Preliminary Principal Amount", and collectively the "Preliminary Amounts") may be revised before the receipt and opening of the bids for their purchase. **ANY SUCH REVISIONS MADE PRIOR TO THE OPENING OF THE BIDS** (the "Revised Aggregate Principal Amount" and the "Revised Principal Amount", and collectively the "Revised Amounts") **WILL BE PUBLISHED ON THOMPSON MUNICIPAL MARKET MONITOR ("TM3") (www.tm3.com) NOT LATER THAN 9:30 A.M., PREVAILING EASTERN TIME, ON THE SALE DATE FOR THE BONDS.**

In the event that no such revisions are made, the Preliminary Amounts will constitute the Revised Amounts. Bidders shall submit bids based on the Revised Amounts and the Revised Amounts will be used to compare bids and select a winning bidder.

After the receipt and opening of the bids for their purchase, the County may reject the bids for the Bonds or adjust the aggregate principal amount and the principal amount of each maturity of the Bonds; provided that such adjustments are within the limitations set forth in the Bidding Parameters Table, calculated based on the applicable bid amount. The County will consult with the successful bidder before adjusting the amount of any maturity of the Bonds or canceling the sale of the Bonds; however, the County reserves the sole right to make adjustments, within the limits described above, or to cancel the sale of the Bonds. The County intends to notify the successful bidder, if any, of any adjustments made after the opening of the bids promptly and in any event not later than five (5) hours after the bid opening unless waived by the successful bidder. Adjustments within the limits described above will not relieve the successful bidder from its obligation to purchase all of the Bonds offered by the County, assuming the County has satisfied all other conditions of this Official Notice of Sale.

If the principal amount of any maturity of the Bonds is adjusted after the award, the interest rate and reoffering price (as a percentage of the adjusted principal) for each maturity and the Underwriter's Discount, per \$1,000 of par

**Form of Bid, Interest Rates and Bid Prices**

All bids must conform to the requirements of this Official Notice of Sale. Bidders must bid to purchase all maturities of the Bonds. No bid will be considered which does not offer to purchase all of the Bonds. Each bid must specify (i) an annual rate of interest for each maturity, (ii) a reoffering price or yield for each maturity, and (iii) a dollar purchase price for the entire issue of the Bonds.

A bidder must specify the rate of interest per annum per maturity, which the Bonds are to bear, to be expressed in the coupon rate multiples set forth in the Bidding Parameters Table. Any number of interest rates may be named, but the Bonds of each maturity must bear interest at the same single rate for all bonds of that maturity.

Each bid for the Bonds must meet the minimum and maximum coupon and pricing criteria shown in the Bidding Parameters Table on a maturity and aggregate basis.

Each bidder must specify, as part of its bid, the prices or yields at which a substantial amount (i.e., at least 10%) of the Bonds of each maturity will be offered and sold to the public. Reoffering prices presented as a part of the bids will not be used in computing the bidders' true interest cost. As promptly as reasonably possible after bids are received, the County will notify the successful bidder that it is the apparent winner.

**Disclaimer**

The use of PARITY® electronic bidding shall be at the bidder's risk and expense, and the County shall have no liability with respect thereto. The County is using electronic bidding as a communications medium and solely as a courtesy to prospective bidders. PARITY® is not acting as the County's agent. The County shall assume no responsibility or liability for bids submitted through such electronic bidding service provider. The County shall not be responsible for proper operation of, or have any liability for, any delays or interruptions of, or any damages caused by, the approved provider's service. Without limiting the generality of the foregoing disclaimers, the County does not assume responsibility for any communications or negotiations between bidders and any electronic bidding service provider, or for any failure of such a provider to accurately or timely submit any electronic proposal.

*Each electronic bid submitted via PARITY® shall be deemed an offer, in response to this Official Notice of Sale, and shall be binding on the bidder as if made by a signed, sealed bid delivered to the County.*

Any electronic proposals shall be deemed to incorporate all of the provisions of this Official Notice of Sale. If any provision of this Official Notice of Sale conflicts with information provided by PARITY®, this Official Notice of Sale shall control. The County is not bound by any advice or determination of PARITY® as to whether any bid complies with the terms of this Official Notice of Sale. The time as maintained by PARITY® shall constitute the official time with respect to all bids submitted.

**Award of Bid**

The County expects to award the Bonds to the winning bidder on the Sale Date. It is anticipated that all bids will be reviewed by the Director of Finance of the County at the time stated above and will be acted on following the opening, tabulation and verification of the bids received. The decision as to the award of the Bonds will be final. Bids may not be withdrawn prior to the award.

The Bonds will be awarded by the County on the Sale Date to the bidder whose bid complies with this Official Notice of Sale and results in the lowest true interest cost to the County. The lowest true interest cost will be determined in accordance with the True Interest Cost ("TIC") method by doubling the semi-annual interest rate, compounded semi-annually, necessary to discount the debt service payments from the payment dates to the Dated Date of the Bonds and to the aggregate purchase price of the Bonds. If two or more bidders offer to purchase the Bonds at the same lowest TIC, such Bonds may be apportioned between such bidders if it is agreeable to each of the bidders who have offered the price producing the same lowest TIC; provided, that if apportionment is not acceptable to such bidders, the County will have the right to award such Bonds to one of such bidders.

### ***Reoffering Prices and Certificate***

The successful bidder shall make a bona fide public offering of all of the Bonds and shall represent to the County that such reoffering is in compliance with all applicable securities laws of the jurisdictions in which such Bonds are offered. Within 30 minutes after being notified of the tentative award of the bonds, the successful bidder shall advise the county in writing (via facsimile or e-mail transmission) to Geoff Stewart or Paul Chung at [stewart@pfm.com](mailto:stewart@pfm.com) or [chungp@pfm.com](mailto:chungp@pfm.com), respectively, of the initial public offering prices of the Bonds. The County will review the initial public offering prices for compliance with applicable securities laws prior to final confirmation of the award.

SIMULTANEOUSLY WITH OR BEFORE DELIVERY OF THE BONDS, THE SUCCESSFUL BIDDER SHALL FURNISH TO THE COUNTY A CERTIFICATE ACCEPTABLE TO BOND COUNSEL TO THE EFFECT THAT (I) THE SUCCESSFUL BIDDER HAS MADE A BONA FIDE PUBLIC OFFERING OF EACH MATURITY OF THE BONDS AT THE INITIAL REOFFERING PRICES, (II) AS OF THE DATE OF THE SALE OF THE BONDS, THE SUCCESSFUL BIDDER REASONABLY EXPECTED TO SELL A SUBSTANTIAL AMOUNT OF EACH MATURITY OF THE BONDS TO THE PUBLIC (EXCLUDING BOND HOUSES, BROKERS AND OTHER INTERMEDIARIES) AT THEIR RESPECTIVE REOFFERING PRICES, AND (III) A SUBSTANTIAL AMOUNT OF EACH MATURITY OF THE BONDS WAS SOLD TO THE PUBLIC (EXCLUDING BOND HOUSES, BROKERS AND OTHER INTERMEDIARIES) AT THEIR RESPECTIVE INITIAL REOFFERING PRICES OR SUCH OTHER FACTS REGARDING THE ACTUAL SALE OF THE BONDS AS BOND COUNSEL SHALL REQUEST, AS DESCRIBED BELOW. Bond Counsel advises that (i) such certificate must be made on the best knowledge, information and belief of the successful bidder, (ii) the sale to the public of 10% or more in par amount of each maturity of the Bonds at the initial reoffering prices would be sufficient to certify as of the sale of a substantial amount of the Bonds, and (iii) reliance on other facts as a basis for such certification would require evaluation by Bond Counsel to assure compliance with the statutory requirement to avoid the establishment of an artificial price for the Bonds.

### ***Tax Status, Legal Opinions, Closing Documents and No Litigation***

The approving legal opinion of McKennon Shelton & Henn LLP, Baltimore, Maryland, Bond Counsel, will be furnished without cost to purchasers of the Bonds. A summary description of the tax treatment of the Bonds is contained in the Preliminary Official Statement under the heading "Tax Matters." The proposed form of legal opinion of bond counsel is attached as Appendix C to the Preliminary Official Statement.

### ***Additional Information***

This Official Notice of Sale is not a summary of the terms of the Bonds. Reference is made to the Preliminary Official Statement for a further description of the Bonds and the County. Prospective investors or bidders for the Bonds must read the entire Preliminary Official Statement to obtain information essential to making an informed investment decision. The Preliminary Official Statement is deemed final by the County as of its date for purposes of the Rule but is subject to revision, amendment and completion in a final Official Statement. Additional information concerning the matters discussed in this Official Notice of Sale, and copies of the Official Bid Form and Preliminary Official Statement may be obtained online at <http://bonds.montgomerycountymd.gov> or by request from any of the following: Joseph F. Beach, the County's Director of Finance, at (240) 777-8860 or [joseph.beach@montgomerycountymd.gov](mailto:joseph.beach@montgomerycountymd.gov); Jacqueline Carter, the County's Debt Manager, at (240) 777-8979 or [jacqueline.carter@montgomerycountymd.gov](mailto:jacqueline.carter@montgomerycountymd.gov); Geoff Stewart at (215) 557-1484 or [stewart@pfm.com](mailto:stewart@pfm.com); or Paul Chung at (215) 557-1216 or [chungp@pfm.com](mailto:chungp@pfm.com).

### **MONTGOMERY COUNTY, MARYLAND**

By: /s/ Joseph F. Beach

Joseph F. Beach  
Director of Finance

Dated: